# PUBLIC ADMINISTRATION

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**a*=review article, *n*=note, r=review.

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# Public Administration

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## NOTES



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# PUBLIC ADMINISTRATION

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# *The United Kingdom Atomic Energy Authority*

By R. Darcy Best

*Established in August, 1954, the Atomic Energy Authority is a public corporation with certain interesting new features.*

## *Origins*

The interest of the British Government in atomic energy began during the war when research into the possibility of making an atomic bomb was undertaken by the "Directorate of Tube Alloys," a secret section of the Department of Scientific and Industrial Research. In 1943, under an agreement with the U.S.A., this work was suspended and most of the leading scientists and their equipment were transferred to Canada and the U.S.A. to carry on the investigations there.[1] For two years there was no atomic research in this country. Then, in 1945, the Government decided to resume work in this field and because it was not then known how to apply atomic energy to social ends and because of the need to equip this country with atomic weapons, it was this time placed under the Ministry of Supply as the Department responsible for armaments. There, endowed with the highest priority, the development of atomic energy went forward with speed and with great success, the large and complicated installations for research and the production of uranium and plutonium were constructed, and in October, 1952, the first British atomic bomb was successfully exploded.

By this time the Conservative Government had come into office and, although they recognised the success of the atomic energy project under the Ministry of Supply, they did not think that the Civil Service was the most suitable management for what had become a large and rapidly growing industry. This kind of undertaking was not easy to operate within the framework of Government and it was especially difficult to fit into the strict pattern of Civil Service routine in such matters as expenses, promotion and salaries. The need to separate atomic energy work from the ordinary departmental administration coupled with the importance of the coming industrial applications of atomic energy made it desirable to reorganise the project on an industrial basis as a public corporation. In April, 1953, when this had been decided upon, a committee, consisting of Viscount Waverley (formerly Sir John Anderson), Sir John Woods and the late Sir Wallace Akers, was set up to study the proposal and to advise on how best to put it into practice. In their report, extracts from which were published in a White Paper,[2] they suggested that responsibility for atomic energy should be transferred from the Ministry of Supply to a novel public corporation, the Atomic Energy Authority, which would combine the freedom and flexibility of an industrial enterprise with operation under strict Government control.

The recommendations of the Waverley Committee were accepted and embodied in the Atomic Energy Authority Act, 1954, but before the Authority could come into being much preparatory work had to be done. The atomic energy project had first to be separated from the other departments of the

Ministry of Supply and set up, within the Civil Service, as a self-contained entity with its own administrative organs. This was done by transferring, by Order in Council,[8] the atomic energy responsibilities of the Minister of Supply to a new, temporary department, the Department of Atomic Energy. Under the Lord President, this Department arranged the transfer of the atomic energy undertaking to the new Atomic Energy Authority on 1st August, 1954.

*The Authority*

The Atomic Energy Authority Act is not a code of atomic legislation. Instead it builds upon the existing law: the Atomic Energy Act, 1946, the Radioactive Substances Act, 1948, and the Transfer of Functions (Atomic Energy and Radioactive Substances) Order, 1953, amending and adapting them to set up an Authority with the appropriate rights and liabilities.

Section 1 of the Act provides that the Atomic Energy Authority " shall consist of a chairman and not less than seven nor more than ten other members," to be appointed by the Lord President on his terms. Three of the members are " to be persons who have had wide experience of, and shown capacity in dealing with, problems associated with atomic energy." One of the members must have had " wide experience of, and shown capacity in, administration and finance," and another must have a special knowledge of labour problems and the handling of workers.

The Chairman of the Authority is also its General Manager. The first chairman to be designated was Sir Edwin Plowden, K.C.B., K.B.E., a business man by vocation, who had, since 1940, held positions of responsibility in the public service. He had previously been Chief Executive in the Ministry of Aircraft Production and between 1947 and 1953 was Chief Planning Officer and Chairman of the Economic Planning Board in the Treasury. He resigned from the Treasury at the end of October, 1953, to take up his private interests in the City, but within a few days it was announced that he had accepted a post on the staff of the Lord President, where he assisted in the establishment of the Authority. Sir Edwin's salary as Chairman of the Authority is £8,500 a year.

The Act specifies the qualifications of four of the directors although these directors do not, in general, exercise a functional management and are not responsible for particular establishments. The Board are collectively responsible for atomic energy affairs as a whole, supervising the work of executives in charge of the different stations to whom management is decentralised. However, three members of the Board have been given executive duties in particular sections of the Authority's work. These are Sir John Cockcroft, K.C.B., C.B.E., F.R.S., the Member for Scientific Research, who is also Director of the Atomic Energy Research Establishment; Sir Christopher Hinton, F.R.S., the Member for Engineering and Production and the Managing Director of the Industrial Group; and Sir William Penney, K.B.E., F.R.S., Member for Weapons Research and Development and the Director of the Atomic Weapons Research Establishment. These three do double duty as members of the Authority and as executives managing three of its sections, an expedient necessary until suitable men have been found to take over from them. The salaries of the full-time members of the

Authority are £5,000 a year, but under Section 1 (7) of the Act the three mentioned above are to receive an additional £1,000 a year each for their "heavy work" as executives of the Authority. Section 1 (7) provides that if any member of the Authority is employed about its affairs in a subordinate position "otherwise than as a member thereof" he may be paid an additional remuneration.

The other full-time members of the Authority are Sir Donald Perrott, K.B.E., Member for Finance and Administration, previously Secretary to the Department of Atomic Energy, and Mr. W. Strath, C.B.E., a Third Secretary of the Treasury, who is mainly concerned with the Authority's relations with industry, with overseas atomic energy organisations and with its raw material requirements. Besides these full-time members there are also four part-time members whose salary has been fixed at £500 a year. One of the four, Lord Cherwell, does not wish to take up his allowance. Lord Cherwell, C.H., F.R.S., is Professor of Experimental Philosophy at Oxford and the close friend and adviser of Sir Winston Churchill. The other part-time members are Sir Luke Fawcett, O.B.E., formerly general secretary of the Amalgamated Union of Building Trade Workers; Sir Ian Stedeford, K.B.E., the Chairman and Managing Director of Tube Investments Ltd.; Sir Rowland Smith, Chairman of the Ford Motor Company; and Mr. C. F. Kearton, a director of Courtaulds. The Board have appointed Mr. D. E. H. Pierson to be their Secretary and its full-time members, together with the Chairman, form a management committee known as the Atomic Energy Executive.

### *Powers and Functions of the Authority*

The principal business of the Authority is research, the production of fissile material and the study of its industrial applications. They are also the contractors to the Ministry of Supply for the production of atomic weapons. Section 2 of the Act defines their functions.

The Act required the Lord President to transfer to the Authority the powers conferred on him by the Atomic Energy Act, 1946, the Radioactive Substances Act, 1948, and the Transfer of Functions (Atomic Energy and Radioactive Substances) Order, 1953. On the appointed day the Authority assumed responsibility for the production of fissile material, atomic energy and isotopes and all day-to-day operations connected with these activities, such as research and building. Section 2 (2) of the Act, most of which was derived from the two previous Acts, granted the Authority powers similar to those previously held by the Minister of Supply and the Lord President and enabled them to do everything necessary for the development of atomic energy. Under this Section the Authority can "produce, use and dispose of atomic energy and carry out research into any matters connected therewith," they can undertake manufacturing or trading operations or indeed "do all such things . . . as appear to the Authority necessary or expedient for the exercise of the foregoing powers." Their powers extend over radio-isotopes. Furthermore, the Authority may make arrangements for the conduct of research with outside institutions, such as universities or firms, whom they may, with the approval of the Lord President and the consent of the Treasury, assist with grants or loans. Loans may also be made under this Section for

production purposes. Loans of this kind have already been made to South African, Australian and New Zealand companies to extend the production of uranium and heavy water respectively. The Authority are also empowered to provide training and education in atomic energy. To this end they have set up an isotope and a reactor school at Harwell to provide courses for outside engineers, including those from overseas. These are to enable the new nuclear technology, in which materials are measured in atoms or particles of atoms, to become widely known; for on this depends the future progress of British industry and our economy.

The Authority operate in co-operation with the Electricity Authorities and manufacturing industry. Their objective is to secure the design, construction and operation of economic nuclear power units as early as possible. A White Paper last year, *A Programme of Nuclear Power*, described the ten-year plan in which twelve nuclear power stations will be built, at a cost of £300 millions, to produce, by 1965, 1,500-2,000 megawatts of electricity with a saving of from five to six million tons of coal a year. According to this: "It is intended that the Electricity Authorities and private industry should obtain as quickly as possible the practical experience in designing and building nuclear power stations. . . . The Atomic Energy Authority, while giving as much assistance and advice to industry as possible, will remain primarily a research and development organisation and will continue to design, build and operate pioneering types of power reactor. They will also be responsible for buying uranium, fabricating the fuel elements, processing the used fuel and extracting the plutonium from it."[4]

The Authority is therefore to "remain more or less an incubator which will hatch the ideas of the research people and those will be followed up by industry,"[5] undertaking basic research and the construction of prototype nuclear power plants. Once these have been proved the Central Electricity Authority and the Scottish Electricity Boards will then be free to place contracts with industry, to their own specifications as they do for coal-fired stations, for reactors of these or improved types. These reactors will be operated as part of their system of electricity supply, the atomic fuel, the fissile material, being bought from the Atomic Energy Authority. The Authority have already produced prototypes of many types of equipment, such as laboratory apparatus and electronic devices, for manufacture by commercial firms. They have made available to industry their specialised knowledge and experience in the design and construction of nuclear reactors, and their experimental installations serve as training grounds for industrial concerns. On the side of industry the response has been swift. Besides a number of independent firms active in this field, four large groups were formed last year in which several big civil, electrical and mechanical engineering concerns combined to pool their resources for a joint attack on the problems of nuclear development.

The relations between the Electricity Authorities and the Atomic Energy Authority are governed partly by Section 2 (2*b*) of the Act, under which the Authority have power to produce and dispose of "articles" required for use in atomic energy, and partly under other Acts of Parliament. The Authority may produce electricity so long as it is a by-product of their main

business. They are not to supplant the electricity boards, either in the supply of electricity or in the construction of transmission and distribution lines, except on their own property. Any electricity they generate surplus to their own internal requirements will be sold to the Central Electricity Authority.

One of the Authority's activities is the production and sale of radioactive materials. This is carried out at the Radiochemical Centre, Amersham, where some 20,000 consignments are dispatched a year with an annual turnover of over £500,000.

The Authority also produce the atomic bomb, the terrible armament of modern war. The extent of the Authority's interest in atomic weapons and the relations between it and the Minister of Supply are defined in the first proviso to Section 2. Under this the Authority may not undertake any weapon development or production except on the order of the Minister of Supply, although the Authority may, on its own initiative, carry out research " which may lead to improved types of nuclear assemblies." In their normal way of ordering weapons, the Service Departments state their requirements for atomic weapons to the Ministry of Supply, which is then responsible for meeting them. The Ministry of Supply then places contracts with the Atomic Energy Authority for the nuclear components of the weapons in the same way as it orders other explosives. The conventional parts of the atomic weapons, the detonating mechanisms, remain the responsibility of the Ministry of Supply. The Authority may not, except to the specifications and requirements of the Minister of Supply, undertake any production or development of atomic weapons and this, in conjunction with the Lord President's powers, ensures that the Government have complete control over their manufacture. However, the Authority are allowed to do basic research for the improvement of atomic warheads without the prior consent of the Minister of Supply, although if this is done he will naturally be kept informed. But it is probable that most of the work done by the Weapons Research Group at Aldermaston is under research contract from the Minister of Supply for the solution of Service problems. Recently it was announced that six atomic reactors for the production of plutonium and other substances for military purposes are to be constructed; two are to be at Calder Hall in Cumberland and four at Chapelcross, Annan, in Dumfriesshire. They will be operated by the Authority's Industrial Group. The new reactors have a dual purpose. They will also produce electricity for the national grid.

No territorial limitation has been placed upon the operations of the Authority for a great deal of atomic work is done in collaboration with other countries and with international organisations such as C.E.R.N. (the European Organisation for Nuclear Research) and no doubt much will be done under the aegis of the United Nations Agency and with the projected European nuclear energy pool. To give a few instances, the development of atomic energy here has been greatly assisted by Canadian research. The Authority have supplied information on atomic energy topics to Commonwealth and continental countries such as Australia and France. Together with the United States, the United Kingdom operates the Combined Development Agency, a body which arranges for the production of uranium in South Africa and the Belgian Congo. The Authority have also set up, with the New Zealand

Government, a company, Geothermal Development Ltd., for the production of heavy water in New Zealand. Last year the Authority's delegates took part in the first international atomic energy conference at Geneva.

Besides these activities it may also be necessary for the Authority to place contracts for research with overseas universities, to exploit foreign ore bodies on their own account, or to undertake a strategic dispersal of their plants. The Authority might, for instance, undertake a geological survey of the Commonwealth and Empire for minerals and raw materials useful for their purposes. The Authority must, therefore, be allowed to operate not only in this country but anywhere in the world.

*Government Control and the Duties of the Lord President*

While there were good reasons for separating the development of atomic energy from the normal departmental structure, there were also strong reasons for retaining a large measure of government control. Atomic armaments had become the most important part of the national defence, and a subject of grave concern in national and international politics. It was hoped that in a few years electricity from nuclear power stations would begin to solve the problems of the coal shortage and electricity supply. But as experiment had only just begun with the commercial applications of atomic energy, the Authority were not likely to have a revenue of their own for some time to come. They would therefore have to rely on the Government for their large outlays, and this would place them under the financial control of Parliament and the Treasury. Furthermore, the development of atomic energy had been carried out in collaboration with other countries. These facts meant that the Authority had to be associated with the Government to an extent that did not apply with other public corporations. For only a Government could decide the important questions of atomic energy policy: the allocation of capital investment, both the total to be spent and within that the division between civil and military expenditure; the application of fissile material; the location of plants and matters of security and foreign policy. The necessity for strict government control was explained by the Lord President, the Marquess of Salisbury, in these words: "In view of the political, international and security aspects of atomic energy, and the complete financial dependence of the Authority on public funds, the relations between the Government and the Authority will evidently have to be closer than is the case with Corporations whose activities are mainly non-contentious, domestic, non-secret and financially self-supporting."[6]

This control has been secured by placing the Atomic Energy Authority under the supervision of the Lord President of the Council with the aim of combining independent industrial management with responsibility to Parliament. For one of the difficulties in the administration of a government atomic energy project is that of reconciling the freedom the technical man must have from continuous interference on points of detail with the complete control of the political employer. Section 3 of the Atomic Energy Authority Act, which governs this, was not therefore an easy one to draft. Defining the powers and duties of the Lord President in relation to the Authority, it is an important one and, for purposes of comparison with other nationalised industries, of great interest. Under this Section the Lord President has

" a general duty . . . to promote and control the development of atomic energy," and a particular duty of ensuring that " in the conduct of the Authority, the proper degrees of importance are attached to the various applications of atomic energy." To this end he may give the Authority binding directions on any subject he thinks fit, although he will consult with them before he does so and he will not so intervene unless overriding national interests so require.

The Lord President was chosen for the supervision of the Atomic Energy Authority because he is generally responsible for the Government's contact with the world of science and technology for he has the oversight of the Department of Scientific and Industrial Research, the Medical Research Council, and other bodies. He is also in a position to be impartial between the different users of atomic material. This fissile material, uranium 235 or plutonium, is in very limited supply. Plutonium, an artificial element, must be manufactured atom by atom from natural uranium in an atomic reactor and its separation from the uranium requires very complicated chemical plant. Uranium 235 has to be isolated from natural uranium, of which it is an isotope, in large and elaborate gaseous diffusion plants which, besides being immensely difficult and costly to construct, consume enormous quantities of electricity and water. Both these elements are the active substances in atomic weapons and industrial reactors. Sir David Eccles[7] described how the disposition of this extremely rare material would have to be decided in these words : " It is a fact that there are various claimants for fissile material, and it is also a fact that this is an extremely expensive business and that we shall not have enough money to experiment in all directions at once to the extent to which the enthusiasts would like. Therefore, it is necessary to have a final decision, so that the competing claims upon this fissile material can be looked at and decided. In the Government's view that demands a senior Cabinet Minister who has no departmental interest in the use of atomic energy."[8]

" What the Lord President will be concerned with," said Lord Salisbury, speaking as Lord President on behalf of the Government, " is main questions of policy, whether financial or otherwise, and, in particular, the balance of the use of this atomic material between the needs of defence, power, biology and so on, so as to ensure that the broad needs of government policy and the broad needs of the country are satisfied."[9] The Lord President thus exercises a general supervision over the activities of the Authority, for whom he is responsible to Parliament. He appoints the members of the Authority and presides over the Cabinet Committee on atomic energy. This consists of those Ministers who have a share of responsibility in the activities of the Authority and it probably includes the Chancellor of the Exchequer, the Foreign Secretary, the Secretary of State for Commonwealth Relations, and the Ministers of Fuel and Power and of Defence. They are assisted by an Official Committee composed of high civil servants drawn from their departments. These two committees, at their different levels, discuss what shall be required of the Authority, the policy of the various departments concerned, and the co-ordination of their work.

To enable him to carry out his functions, the Lord President has more power than that possessed by any Minister under the previous nationalisation

Acts. These Ministers have power to issue to the boards of the corporations for which they are responsible only " directions of a general character as to the exercise and performance by the board of their functions in relation to matters appearing to the Minister to affect the national interest."[10]

But under the Atomic Energy Authority Act the Lord President has power to give the Authority " such directions as he may think fit." That is, he may give them binding orders on any subject, be it " general or particular." But not only must the Authority be open to the directions of the Minister, they must also be free to manage their affairs in the most business-like way. For this reason much thought was put into that section of the Act which defines the balance between the Minister and the Authority.[11] Under this subsection, although the Minister has complete freedom to intervene anywhere he likes, no instructions will be issued by him without consultation with the Authority, and the Act states that he shall not so command " unless in his opinion overriding national interests so require." Thus : " The effect of Clause 3 as a whole is . . . to give the Lord President complete freedom to intervene ; but it includes a proviso . . . that he shall not regard it as his duty to intervene unless in his judgment his intervention is imperative in the national interest. That is the way we seek to strike the proper balance. The general purport of the clause is that, subject to broad general control of policy, and under a financial ceiling, the Authority is to be free to conduct its day-to-day affairs on sound business lines, without ministerial or official interference. The only exception to this rule will be when some consideration of national interest is strong enough to override it."[12]

The Authority are to render to the Lord President such reports and accounts as he may require. One of these is to be an annual report of their work on which they are to indicate " what parts thereof ought in their opinion to be withheld from publication in the interests of national security." This report the Lord President will lay before Parliament and, although anything that may prejudice national security will have to be omitted, it is intended to make it as informative as possible. Taken in conjunction with the Lord President's Estimates, it will provide material for an annual debate on atomic energy topics.

The Lord President also has certain duties relating to security. " We are dealing here," said Sir David Eccles, then Minister of Works, " with military secrets of a very high value and we know that the Communists are trying day and night to get hold of this information. They have a few sympathisers in this country who would help them if they could, and I submit that it is not part of the duty of a free society to give men, who aim at the overthrow of its institutions, a sporting chance to do so. Therefore, when one gets a conflict between personal liberty and loyalty to country, as we have here, something has to be done which is thoroughly un-English."[13] With these words he defended the practice under which a man, against whom no deliberate disloyalty can be proved, may be dismissed on the argument that he might, by reason of his political ideals, be tempted to treason. Special jobs require a special loyalty, but a man's career and reputation may be ruined and his livelihood forfeited because administrative prudence asserts that he is a " bad security risk." We must not, therefore, allow necessity of state to excuse denial of justice to the individual. We

may concede that the Atomic Energy Authority are entitled to discriminate against those in whom they cannot place absolute trust, but we cannot allow the determination of a man's career and honour to rest entirely with the "unfettered discretion of a semi-independent board." The Atomic Energy Authority Act, therefore, embodies two safeguards to the rights of the individual. No one is to be dismissed from the Authority on security grounds except by a Minister responsible to Parliament, for the Act places on the Lord President the duty of consenting to such dismissals. Furthermore, a man who has come under suspicion is to hear the charge and state his case before a tribunal, for there is a proviso which defines "security grounds" as the "grounds for dismissal from the civil service of Her Majesty, in accordance with any arrangements for the time being in force relating to dismissals from that service for reasons of national security." The present arrangement for security cases in the Civil Service is that they are brought before a tribunal of three, usually composed of retired civil servants, the "Three Wise Men" as they are called, where those suspected can hear and question the charge against them. This protection has been granted to the employees of the Authority, although they are not allowed the assistance of counsel or even a "prisoner's friend" for a close examination of the evidence might compromise the sources of information. Such is the bill of expediency on justice.

The Lord President retains certain powers, originally granted to the Minister of Supply by the Atomic Energy Act, 1946, and the Radioactive Substances Act, 1948, but not transferred to the Atomic Energy Authority. The Act of 1946 conferred on the Minister of Supply drastic powers to seize minerals and mineral deposits and to acquire and control the movement of fissionable materials. The Minister could demand information on atomic energy topics and enter and inspect premises in search of atomic materials, plant and processes. He could inspect mineral workings, plant, contracts, drawings or research studies. Furthermore he had powers to search for, compulsorily acquire and work mineral deposits, to requisition atomic energy materials and rights under contract, to prohibit the production and use of atomic energy and to restrict publications on it. The Minister could also take over patents. The Radioactive Substances Act, 1948, gave him further powers to control the sale and use of radioactive isotopes and the use of irradiating apparatus, and to regulate occupations using them. Licences could be issued and inspectors empowered to enter premises. These powers, which involve control over, and interference with, members of the public, are of a Ministerial nature. It is not right that a semi-independent corporation should have powers of entry, of licensing and of compulsory acquisition of property. They have not, therefore, been transferred to the Authority, but are left with the Lord President, who received them under the Transfer of Functions (Atomic Energy and Radioactive Substances) Order, 1953.

Besides his other offices, the Lord President also has a small office to enable him to discharge his atomic energy functions. At present it numbers 16 and it is to be kept as small as possible to avoid a bureaucratic duplication of officials with the Authority. The present head of the Atomic Energy Office is its Under-Secretary, Mr. F. C. How, C.B., who was formerly Under-Secretary (Atomic Energy) in the Ministry of Supply.

*Finance*

Under the Atomic Energy Authority Act, Parliament is to provide the Lord President with money for the expenses of the Authority. The application of this money, and anything that the Authority may earn through trading, is to be decided between the Lord President and the Treasury. The latter may require trading revenue and unspent balances to be paid into the Exchequer. The Authority are to keep accounts, in a form to be decided by the Treasury, which they will transmit each year to the Comptroller and Auditor-General. He will examine, certify and lay them, with observations thereon, before each House of Parliament.

No provision has been made for the self-finance of the Authority because for some time to come they will not be able to earn sufficient on their own; at present their annual revenue from the sale of isotopes amounts to about £500,000. This is negligible compared with the enormous expenditure the atomic energy undertaking requires. In the financial year 1954-55 the provision for atomic energy in Class IX, Vote 7, of the Civil Estimates was £53.7 million, and this year, 1955-56, it is £50.9 million. Nor is this all. For there are further secret sums for the production of atomic weapons. It will be a long time before the Authority are able to pay their own way by the sale of nuclear fuel elements to power stations or by the royalties from their designs and patents. So, for as long as can be foreseen, the Authority will require a large annual grant from public funds.

The complete dependence of the Authority on the Exchequer requires that a Minister should be responsible to Parliament for their expenditure. The atomic energy project continues, therefore, as before under the financial control of Parliament and the Treasury. However, there are two important changes from previous times. First, under the Act, Parliament has more control of atomic finances than it had when these were under the Ministry of Supply. Then all the atomic energy items were hidden among the various Subheads of the Ministry of Supply Vote; now they are collected together and presented as moneys to be voted to the Lord President and hence the size of the atomic energy undertaking can at last be known. However, sums to be spent on atomic weapons are still to remain secret. Secondly, the Authority are accorded a certain degree of freedom from detailed Treasury control. Although the Lord President's Estimate is divided into headings, these are not so specific as the usual Departmental Votes. This is because of the freedom the Authority have to manage their own affairs and of the need for secrecy. The progress of science and engineering cannot be foreseen and a developing industry must be free to shift its money about. Therefore the Authority have to have " rather more flexibility and discretion in respect of capital payments than is usual with Government Departments."[14] The Estimates make no distinction between civil and military expenditure because this must be kept secret and also because much of the work is of dual value.

Apart from this the finances of the Authority are managed in a way similar to that of any Government Department. The Lord President, like other Departmental Ministers, submits an Estimate to Parliament each year and asks for a Vote to provide for the activities for which he is responsible. His Estimate, like any other, may be examined by the Select Committee on Estimates and debated. The first part of his Estimate is for a very small

amount, about £47,000, for his Atomic Energy Office. The remainder, which contains over 99 per cent. of the total spent, is the money which the Lord President pays over to the Authority. At the end of each year unspent balances are to revert to the Treasury and the Authority are also to surrender anything they may earn through the sale of electricity or isotopes. This is to enable a strict Parliamentary control to be maintained over the Authority's expenditure, for they might undertake unsanctioned work if they got extra money from sales. Also, as most of the Authority's expenditure is covered by taxation, the public have a right to expect the return of any revenue.

The consent of the Treasury must be obtained before any payment is made to the Authority. The financial discipline of the latter is supervised by the Lord President's Accounting Officer, the permanent head of his Department. At the end of each financial year the Authority must send in the usual Appropriation Account to the Comptroller and Auditor-General. In addition the Authority are to prepare accounts " in such form as the Treasury may direct." The Comptroller will examine these as well and he will present them, with his Report, to Parliament. The accounts of the Authority, like other Appropriation Accounts, may be examined by the Public Accounts Committee.

In addition to the Lord President's Estimate, the Ministry of Supply Vote also includes provision for payments to the Authority for work on atomic weapons. Part of this is recovered by the Ministry of Supply from the Service Departments whose Votes provide for this payment. For security reasons the Ministry of Supply and Service Department Votes do not show these sums separately; instead they are concealed under larger headings.

### *Subsidiary Provisions*

The remainder of the Act, six sections and three schedules, is of a subsidiary nature, modifying details of the law to accommodate the new Authority. Similar clauses of technical provisions may be found in other Acts relating to public corporations. I will light only upon points of major interest.

Section 5 contains a number of common form provisions for the compulsory purchase of land and for the exemption of the Authority from certain building by-laws. It also lays down the duty of the Authority in relation to radioactive material, including the discharge of radioactive waste.

Radioactive substances emit lethal radiations which are dangerous to human beings because of the inonising effect they have on the tissues of the body. Because of this, workers in the atomic energy laboratories and factories, and the people living in the districts around, must be protected from the ill effects that would come of an accidental escape of ionising radiation or from the discharge of radioactive waste. This waste consists of material made radioactive during the manufacture and treatment of uranium, including its irradiation in atomic reactors. The amount of radiomaterial produced in the reactors of today is enormously greater than anything experienced before and so far no use has been found for most of it. All that can be done is to store the contaminated material underground until its lethal energy decays or to discharge it, suitably diluted, into the atmosphere or some

convenient sea or river. When this is done, tests must be made in the areas around to see that the radioactivity does not rise above safe levels. The districts around the atomic energy centres are therefore patrolled by vans fitted up for this purpose and the sea off the Windscale coast is scoured by a special motor fishing vessel.

The Authority are bound, both under common and statute law, to take every possible precaution for the safety of the public against radioactive emanation. Their extensive common law obligation—see the rule in *Rylands v. Fletcher*—is affirmed in the Act which imposes on them a duty to prevent any damage or injury arising from ionising radiation. According to Sir Reginald Manningham-Buller, Q.C., then Solicitor-General, this section, Section 5, is " to ensure that there should be absolute liability for damage done by the escape of radio-activity from the premises of the Authority, subject to such defence as contributory negligence would allow."[15] This section goes on to set aside, for seven years only, the jurisdiction of local authorities over the discharge, by the Authority, of radioactive wastes. It places the responsibility for protecting the public against the effects of radio-active material on the Government. This is because the general law of the disposal of industrial effluents, to which the Authority are subject, does not yet provide for radioactive waste and the local authorities who administer it do not yet possess the trained staff and expensive equipment necessary for the detection of radioactivity. Under this section the Authority are not allowed to discharge radioactive waste except under authorisation from the Ministry of Housing and Local Government and the Ministry of Agriculture and Fisheries. At present only these two Departments have the special knowledge and equipment necessary for the supervision of the Authority's precautions and the checking that the radioactivity released by them does not rise above the strict levels of tolerance laid down by the Medical Research Council. The two Ministries must consult with local authorities affected and with any other interests, such as River Boards and Fisheries Committees, " as appear to the Minister in question to be proper to be consulted by him." In this way the Government seek to allay the strong local anxieties which have been generated at the thought of these dangers. At the end of the seven-year period the duty of protecting the public from radiation hazards will become the business of the local authorities, who will by then have acquired the necessary technique.

As the contractor to the Ministry of Supply for research into and the manufacture of atomic weapons, the Authority are entrusted with this country's highest military secrets. They are also one of the competitors in a fierce international race for scientific and industrial primacy. The Authority must, therefore, be able to guard their knowledge and for this reason special arrangements are to be found in Section 6 and the 3rd Schedule of the Act. Dealing with security they provide that, for the purposes of certain Acts, the Authority shall be treated as if they were the Crown or a Government Department. These special provisions deal with rating, the employment of special constables and the Explosives and Official Secrets Acts.

Under Section 6 (1) the Authority's land is treated for rating purposes as if it were Crown property. For security reasons rating valuations cannot be carried out by the usual valuation officers, so the Authority are assessed

for the contribution they pay in lieu of rates by the Treasury valuer and his staff, " who are specially clear on security."[16] This section goes on to extend the Official Secrets Act to the Authority's property and to restrict the right of entry into their premises to a few authorised persons. This Act is also applied to the Authority's staff as if they were Crown servants.

The Authority must also be able to secure the physical security of their laboratories and production centres, precautions must be taken against sabotage and the theft of dangerous materials. They have, therefore, been given the right to employ special constables, a power possessed by few bodies outside the Crown. A force of about 500 is to be maintained. Under Schedule 3 the Authority have also been exempted from the provisions of the Explosives Act, 1875, an Act which controls the storage and transport of explosives and the inspection of activities connected with them by Home Office inspectors. This is because atomic explosives, fissile material, are not manufactured to be used as such as are conventional explosives such as nitro-glycerine. The strict secrecy maintained precludes the normal process of licensing their magazines and stores. In any case, the Atomic Energy Authority follow the practices of the Service Departments and the Ministry of Supply, from which they originated, when dealing with explosive materials. When the Lord President dealt with this Schedule[17] he said that in this matter the Authority will follow the Magazine and Explosive Code of Practice at present used in the Service and Supply Departments. This freedom from Home Office control means that there may not be a public inquiry after an explosion at an atomic energy centre in case secret information might have to be disclosed.

Public enterprise should set the standard of good labour-management relations. An atomic energy industry must give especial attention to this point for the shut down, through a strike, of one of its plants, apart from its effect on the continuity of operations, could be very dangerous. Certain duties have, therefore, been laid upon the Authority respecting consultation with, and the welfare of, their staff. Under the Act the Authority are " to seek consultation with any organisation appearing to them appropriate with a view to the conclusion " between them of agreements. These will cover the negotiation of terms and conditions of employment and joint consultation on the safety, health and welfare of the Authority's employees and the efficiency of their work.

Sections 8, 9 and 10 of the Act deal with its interpretation, application to Northern Ireland and short title respectively, while the three Schedules contain the usual detail of a public corporation Act.

### *Internal Organisation*

At present the Authority is organised, under the Chairman, Sir Edwin Plowden, into three Groups : the Research Group under Sir John Cockcroft, F.R.S., the Weapons Research Group under Sir William Penney, and the Industrial Group under Sir Christopher Hinton.

The work of the Research Group, fundamental research into all aspects of atomic energy, is carried out at the Atomic Energy Research Establishment, Harwell, and at the Radiochemical Centre, Amersham, nearby. There are also outstations at Woolwich and Chatham. The A.E.R.E. is divided internally

into 18 divisions devoted to such activities as Nuclear Physics, Reactor Physics, Chemical Engineering, Electronics, etc.[18]

The Atomic Weapons Research Establishment is at Aldermaston in Berkshire, but the Weapons Research Group also has outstations at Foulness Island, off the Essex coast, for flying trials, tests of explosive detonating devices, and the behaviour of components under explosive force; and at Woolwich Arsenal and Fort Halstead, near Sevenoaks. The latter two stations are being moved to Aldermaston as building work there is completed. Fort Halstead is principally concerned with electronic components.

The Industrial Group are responsible for the construction and operation of factories for the large-scale production of fissile material and for its practical application in experimental power stations. It is directed by Sir Christopher Hinton from his Headquarters at Risley, near Warrington. He is assisted by deputies in charge of engineering, production, research and development, and administration. Another senior member of his staff heads a major group specialising in the preparation of military supplies. The Deputy Director (Engineering Services) is responsible for the design and construction of the Group's installations. Based on research data from Harwell, this is undertaken by Design Offices, each under a Chief Engineer with a Deputy and several Assistant Chief Engineers. The Chief Engineers take charge of a particular kind of plant, such as chemical plant or nuclear reactors, and split up their allocation of work into units. These become the responsibility of Assistant Chief Engineers, who direct the work of Design Engineers and Draughtsmen. Designs are prepared in close collaboration with the Research and Development Branch, and with the assistance of a number of specialised engineering and supply branches and in close contact with manufacturers and contractors; work on any particular factory is co-ordinated by a planning section under a Chief Engineer.[19]

The Operations Branch, under the Director of Operations, Mr. Kenneth Ross, O.B.E., former manager of the Anglo-Iranian Oil Co.'s refinery at Abadan, controls the operation of the Authority's large-scale nuclear reactors and associated physical and chemical processing plant. This is done through Works General Managers in charge of the principal factories. These are Springfield Works, between Preston and Blackpool (uranium ore processing plant); Windscale Works, on the Cumberland coast between Seascale and Whitehaven (plutonium production reactors and chemical extraction plant); Capenhurst Works in the Wirral peninsula (gaseous diffusion plant for the separation of uranium 235), and Calder Hall, near Windscale, where this country's first nuclear power station is nearing completion. At Dounreay, in Caithness, a proving ground for future types of reactors is under construction; the first of these will be a fast breeder reactor. At each of these stations the Works General Manager has as his deputy a Works Manager to control production and a number of Group Managers in charge of Works Groups.

There are two other directors. The Director of Administration arranges such things as finance, recruitment and housing—the Authority took over more than three thousand houses from the Ministry of Supply. A Supply Group, under a chief engineer, prepares estimates for the construction of the plant and arranges for supplies through his Contracts Branch. A fourth

director manages the Research and Development Branch, which investigates technical problems arising during the design and operation of the reactors and their ancillary plant. Laboratories are maintained by the Branch at Springfield, Windscale, Capenhurst and Dounreay for work associated with the activities of these works. There are also laboratories at Culcheth, near Warrington, and at Salwick, near Preston, for the metallurgy of rare or unusual metals. The Risley office of the Research and Development Branch has a section dealing with its planning and technical administration, a library and an information service. It also advises the laboratories and the Design and Operations Branches on physical, chemical, engineering and metallurgical problems, and undertakes theoretical studies of an advanced nature.

These three Groups, Research, Weapons Research and Industrial, work in close co-operation and they are co-ordinated from the Authority's London office, which provides common administration and secretarial services.

### *Conclusion*

The new Atomic Energy Authority is of interest among public corporations for its treatment is most unusual. It has been declared to be not a Government Department but a " . . . non-departmental organisation with the necessary executive power, within the framework of an approved policy and under a financial ceiling, to settle day-to-day problems."[20] The Authority comprises a board of five full-time functional and five part-time members without separate technical functions. They have extensive powers for the development of atomic energy and they act on the orders of the Government, which come to them through the Lord President. He is fully answerable for their activities to Parliament and his powers, which are more clearly defined than is the case with other public corporations, give him the last word in their affairs. The office of the Lord President is no longer to be a sinecure for a man of long experience and party standing, able to think ahead unburdened by the detail of business. Instead he must now decide the course and advance the claims of the most advanced industry in the country. Besides the Lord President, three other Ministers have powers of control over certain aspects of the Authority's affairs and a further committee of Ministers decide their policy. The finances of the Authority are those of a Department of State; there is the same system of annual estimates and votes, audit by the Comptroller and Auditor-General, and return of unspent balances. However, the Authority have a latitude in that they are free from detailed Treasury control. This method of finance is similar to that which has already been used to finance other bodies, such as the Overseas Development Corporation, out of grants by the Government. Indeed, the wording of Section 4 (1) and (2) of the Atomic Energy Authority Act follows that of Section 3 of the Overseas Development Act.

Apart from these statutory provisions, the Authority differ from the Boards of other nationalised industries in that they have no commercial function—apart from the sale of a few isotopes—although in the future they may have a revenue from the sale of nuclear fuel elements and royalties from their designs. The business of the Authority is the design of prototype nuclear power stations, the manufacture and operation of which can be

taken up by British industry and the Electricity Authorities. Unlike other nationalised industries, where already established public utilities and basic industries were taken over from private hands, the Atomic Energy Authority were created out of a Government Department to pioneer a new industry and a new science little more than a decade old. Hitherto some critics of the public corporation have taken the view that it is not suited to be the alert and imaginative leader of a new technology. Although the Authority, who employ about 20,000 industrial and non-industrial staff, are not removed from the attention of Parliament, they will be outside the scope of the Select Committee set up to examine the affairs of the nationalised industries, for the committee are to report only on corporations " whose annual receipts are not wholly or partly derived from money provided by Parliament or advanced from the Exchequer."

Sir David Eccles has described the Authority as " . . . a curious half-way house between a Government Department and an ordinary industry,"[21] and we may agree with him that they are indeed " a novel and exceptional Authority."[22] For they enjoy the best of two worlds, the Act conferring on them certain powers and privileges normally reserved for the Crown, which they combine with the freedom of operation and internal structure of an industrial enterprise. It still remains to see how well these provisions will work in practice, but in the meantime we have Sir David's assurance that " the whole of these arrangements have been thought out simply to try to get the best possible organisation for developing what we all know to be the most promising of the industrial developments in our country today."[23]

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[1]See *Statements relating to the Atomic Bomb*, H.M.S.O., 1945; and *Articles of Agreement governing collaboration between the authorities of the U.S.A. and the U.K. in the matter of Tube Alloys*, Cmd. 9123, 1954.

[2]*The Future Organisation of the United Kingdom Atomic Energy Project*, Cmd. 8986, 1953.

[3]The Transfer of Functions (Atomic Energy and Radioactive Substances) Order, 1953 (No. 1673). The transfer took place on 1st January, 1954.

[4]*A Programme of Nuclear Power*, Cmd. 9389, 1955, para. 24.

[5]Sir David Eccles, Minister of Works, H.C. Deb., 29th April, 1954, col. 1881.

[6]H.L. Deb., 11th May, 1954, col. 478.

[7]The then Minister of Works. When, as at present, the Lord President is in the House of Lords, the Minister of Works will answer for him on atomic energy matters. The Ministry of Works were the agency department for the Ministry of Supply for the design and construction of the atomic factories and laboratories.

[8]H.C. Deb., 17th March, 1954, col. 415.

[9]H.L. Deb., 14th December, 1953, col. 61.

[10]Section 3 (1), Coal Industry Nationalisation Act, 1946.

[11]Section 3 (3).

[12]H.L. Deb., 11th May, 1954, col. 479, from Lord Salisbury's speech.

[13]H.C. Deb., 30th March, 1954, col. 1947.

[14]*The Future Organisation of the U.K. Atomic Energy Project*, p. 7, para. 15.

[15]H.C. Deb., 29th April, 1954, col. 1854.

[16]Sir Reginald Manningham-Buller, H.C. Deb., 30th March, 1954, col. 1988.

[17] H.L. Deb., 19th May, 1954, col. 801.

[18]See *Harwell—the British Atomic Energy Research Establishment* 1946-1951, H.M.S.O., 1951; and *Atomic Energy Research at Harwell*, Butterworth's Scientific Publications for the Atomic Energy Authority, 1955.

[19]See *Britain's Atomic Factories*, H.M.S.O., 1954.

[20]*The Future Organisation of the U.K. Atomic Energy Project*, p. 4, para. 12.

[21]H.C. Deb., 29th April, 1954, col. 1881.

[22]H.C. Deb., 1st July, 1954, col. 1536.

[23]H.C. Deb., 17th March 1954, col. 472.

# *Local Government Board and After: Retrospect*

By WILLIAM A. ROSS, O.B.E.

*Mr. Ross read Greats at Balliol and in* 1900 *entered the Local Government Board in what is now known as the Administrative Class. He retired from the Civil Service in* 1938.

IN his book *England* 1870-1914, R. C. K. (now Sir Robert) Ensor states that the Local Government Board had been so constituted in 1871 that its dominant tradition became that of the old Poor Law Board—a tradition of cramping the local authorities and preventing things from being done. When Burns went there (in 1906) the officials at its head included some able men imbued with this spirit and the ex-demagogue fell at once under their control. "The result was that for nine years, during which the Home Office, the Board of Trade and the Board of Education were all helping the nation to go forward, the Local Government Board, though it had the greatest opportunities of all, remained for the most part anti-progressive." Sir James Ross, in his book *National Health in Great Britain* (1952), does not dissent from this judgment. I was in the Local Government Board from 1900 to 1916 and in the Ministry of Health from 1920 to 1938. There was an element of truth in Ensor's indictment, but on the whole I am not disposed to endorse it.

It would be an impertinence to praise the excellent work done by the medical staff of the Board from 1871 onwards. For long they were more concerned with environmental hygiene, but they were maturing the schemes of personal hygiene which had later effects so beneficial. The engineers of the Board, the architects and other technical staff were at all times ready to help local authorities on the details of schemes that came before the Board, whether in applications for loan sanctions or otherwise. As regards the higher staff, it is true that Provis, the Permanent Secretary (1899-1909), indulged at times in tactics of delay, the tactics of Fabius Maximus. He would have agreed with a recent sentence in this *Journal* (Summer, 1951, p. 165): "Procrastination judicially exercised is as much part of the art of administration as prompt and vigorous action." Monro, his successor, and Kershaw, one of four Assistant Secretaries ranking under the Permanent Secretary, were models of efficiency. It is probably true that Monro and Kershaw had a conservative bent. I could imagine them saying, if they saw in a vision the Welfare State as it now is, "Panem et Circenses." Burns in later life used to speak fondly of his private secretary—"my faithful Jerred who never let me down once."

On the general charge that progress was too slow, public opinion was not ready for more rapid progress. I have now before me a book published in 1906 entitled *The Manufacture of Paupers*, containing a number of articles published in the *Spectator*, which condemn the very modest measures then proposed or being carried into effect such as old age non-contributory pensions, school feeding, state or municipal provision of work for the unemployed. One can remember about that time the intense heat provoked in private discussions by the word "socialism" and by any suspicion that a person

had been consorting with socialists or other radicals. Sir James Ross in his book says "Why so slow?" about the health services, not only before 1914, but also between the two wars. One may retort—why now so fast? In those early days there were relatively few Acts of Parliament. They were very carefully prepared and remained in force for long periods with few amendments. The Public Health Act, 1875, lasted to 1936, when a consolidating and amending act was passed. Now so many acts are passed, whether on health or other subjects affecting local government, so many regulations under the acts, and so many amending acts or regulations at frequent intervals that even the specialist cannot keep pace with them. There has certainly been progress in some directions. The infantile mortality was about 150 per thousand in 1900 in England and Wales. It is now 25.3. But let us look at the figures of expenditure in other cognate spheres. The expenditure on poor relief in 1904-05 was eleven million odd. What vast sums are now spent on the objects represented by that figure? On education in that year about 22 millions were spent; now (1952-53 figures) more than 345 millions in England and Wales. There were giants in those days who kept expenditure so low, and yet there is more social unrest now than there was in the years before 1914. Society is honeycombed with unions and associations constantly demanding more pay and less work, each concession being followed by further demands, while prices chase wages and wages chase prices.

The reference to education is not in this connection irrelevant. The Local Government Board, in the sanctioning of loans to local authorities and otherwise, had much control over the finance of education. So far as these authorities were concerned the Board had a voice in any measures promoted before or after 1906 whether by the Home Office, the Board of Trade or the Board of Education such as factory legislation, Health and Unemployment Insurance, feeding and medical inspection of school children, and should have part of the credit. Burns and his officials had the main responsibility for the Housing and Planning Act of 1909 and the Old Age Pensions Act of 1908—both pioneer measures.

As regards education a very disturbing question arises. Before 1914 my impression is that in London there was a keener intellectual life, if one may judge from pulpit, press and platform, also from the stage and literature, than there is now, or was between the wars. In the previous generation the expenditure in England and Wales on education was under four millions in 1884-85 and under eight millions in 1894-95. Is it possible that the benefits of education vary in inverse proportion to the amount of public money spent? In our own literary and scientific association in Elgin, founded in 1836, the records establish that in the last century, when public expenditure on education was a tiny fraction of what it is now, there was a wider range of ability among non-specialists to deliver lectures on scientific or literary or historical subjects (local mainly) than there is at the present day.

If one may now descend to more personal matters, I entered the Board in 1900 as a second-class clerk—the title then given to the lowest grade of the Upper Division, now known as the Administrative Class. There was no prospect of promotion for at least ten years, the salary being £150 rising

by annual increments of £15 to £300. The second-class clerk did not give decisions, but in every case, however difficult, it was his job to submit a statement and a clear-cut solution, so that, if the job was well done, all the Principal had to do was to append his initials or, in appropriate circumstances, to refer to the legal adviser* or the Assistant Secretary. In one branch, as Sir Alexander Gray told the Institute in an after-dinner speech in Edinburgh in 1952, that was what actually happened, the branch where he was then a second-class clerk. One can well imagine that in that branch the juniors' work was exceptionally well done. It was not unusual to allow an official, whether junior or not, to remain for long years in one branch. There being then no spur to ambition within the office, the junior sometimes gave his spare energy to outside interests. I recall publication of an article on Nietzsche in the *Hibbert*, and an article on the ethics of Calvinism in the *International Journal of Ethics*. The latter article was largely inspired by office experience. My Principal was a hard man, the Assistant Secretary, with whom he was not on speaking terms, was also a hard man. In one sentence I gave the quintessence of Calvinism: "For error and failure the individual must assume full responsibility, for success he must claim no credit whatever." The superman of Nietzsche furnished a natural escape for a second-class clerk. Second-class clerk to the end, with the free exercise of the mind, or Permanent Secretary, which career is to be preferred? "If I were not Alexander, I should wish to be Diogenes."

There was another second-class clerk in the Board, William Sutherland. He had been the best all-round scholar of his year in Glasgow University, but despite his scholarship had abounding vitality. In his leisure he wrote books on land, especially land in Scotland, and on old age pensions. Transferred after several years to the Insurance Commission, he was passed over by Morant and remained in the second class. Another man would have been cowed—not so Sutherland. As an expert on land, and a member of the National Liberal Club, he attracted the notice of Lloyd George and worked with him on his land policy. He became M.P. for Argyll, 1918-24, Parliamentary Secretary to Lloyd George as Prime Minister, Privy Councillor, Lord of the Treasury, Chancellor of the Duchy of Lancaster, and was knighted in 1919. He eventually married a lady who owned collieries in Yorkshire. With the decline of the Liberal Party he passed out of politics. He and his wife died in 1949. (All the persons mentioned in this article are now dead, except one or two who are obviously alive.) I last met Sutherland in the Liberal Club before the last war, conversing with John Burns. Burns described to both of us his adventures as President of the Local Government Board when he sallied forth in disguise, to see matters for himself—matters not unconnected, if I remember right, with East End Guardians. His disguise could not have been effectual for he was, if not the best known, at least one of the best known men in London.

Another colleague on the Board was Frank Taylor, who had attained the rank of first-class clerk (£500-£600). He published volumes of poetry

*There was one and only one legal adviser, Adrian, and after him Lithiby. Adrian was father of Lord Adrian, O.M., Master of Trinity College, Cambridge, and in 1954 President of the British Association. In the Ministry of Health in my time the chief legal adviser had a competent legal staff under him.

and died prematurely when writing a life of Marlborough. His work in the office showed economy of energy, but when he found a subject that really interested him he roused himself and wrote a powerful and lengthy minute.

The Annual Reports of the Board show a medley of functions of the most dissimilar character, many of which were transferred to other departments when the Ministry of Health was formed in 1919. The Assheton Report on the training of civil servants speaks of a " framework of ideas " as necessary for a junior. How could any junior form a framework of ideas from these annual reports? The most human parts were the detailed contributions by the General Inspectors concerned with the poor law, human, sensitive and comprehending, though deferring to the policy then in force that a person receiving relief should not be so well off as a person receiving wages. The Inspectors were not all of this order of merit. I recollect one Inspector who, when asked for advice, would return the file with a minute : " Noted with thanks." Challenged by Provis for some alleged indiscretions at a Guardians' meeting he replied to Provis's letter and subsequent telegram : " Letter and telegram acknowledged with thanks." Such men are the salt of the earth, said my informant, in obvious envy of such insouciance. Luckily Provis himself had a keen sense of humour. This Inspector may have been one of those officials of former days, whom Dale envies in his book on the Higher Civil Service, men with a private income of £1,000 a year. I last met the late H. E. Dale in 1950 at a college reunion. In retirement he was revising the more simple dialogues of Plato in Jowett's translation. He said he had led a busy life and had been unable to pursue philosophy, ancient or modern. He had been (1894-99) the best classical scholar of his year in Oxford. He had reached the rank of Principal Assistant Secretary in the Ministry of Agriculture. He deplores in his book the lack of opportunity in the Higher Civil Service for the free exercise of the mind.

There is no need to vindicate the achievements of the Ministry of Health between the two wars. One is more likely to exaggerate. In a paper written by me in 1941 after retirement, I find a statement that in public health, measured by objective tests, the progress was greater than in any period of the nation's history and that in the social services generally there had been great progress. I find also a sentence : " It is indeed arguable that the earnest attention given to health and social services diverted attention from the perils that threatened from abroad and was thus a prime factor in the failure to take appropriate measures to meet those perils."

In actual fact progress between the wars was hectic and very uneven. There were large arrears, which had accumulated in 100 years, to be met in housing and clearance of slums and overcrowded areas. Local authorities had to be stimulated by large government grants. In the absence of such grants not much had been done by the Local Government Board in that sphere. Even in ordinary sanitary administration much had still to be done. The Geddes Report of 1921 and the May Report of 1932 on the pressing need for economy stopped progress in each case for the time being. At the centre and locally full steam ahead. Then came by command of ministers and Parliament the order to reverse and slow down. But the problem of unemployment, 3,000,000 or more in England and Wales, loomed up and

no quite satisfactory solution could be found. Works were put in hand by local authorities in anticipation of requirements with the aid of substantial government grants. Then came another slowing down, when it appeared that the results were not in proportion to the expenditure.

There was much legislation—Housing, Old Age and Widows' Pensions, Rating and Valuation, Local Government Act, 1929, with abolition of over 600 Boards of Guardians and with the block grant formula, town and country planning, and towards the end of the period very useful codification in the Local Government Act, 1933, and the Public Health Act, 1936. Would that it were now possible to consolidate and settle down. In the life of a civil servant there is no work more interesting and more exacting than the work in the preparation of a Bill—the hurried notes on amendments when the Bill has been introduced, the whispered prompting of Minister or Parliamentary Secretary from the official gallery or on the floor of the committee room. Of all subjects town and country planning has proved most intractable. The wit of man has failed after several attempts to devise a measure which can be readily understood by a person of ordinary intelligence. Some time or other the Gordian Knot may have to be cut by bringing under public ownership all land that is developed or ready for development.

### *Departmental Methods*

Coming down to questions of internal management—though the department was overweighted notwithstanding the transfer of functions, the organisation came as near perfection as was humanly possible. This had its drawbacks. If there was little room for slackers there was little scope for personalities like Sutherland or Frank Taylor. Originality of this kind flourishes under a lax régime. But the Assistant Principal, no longer called second-class clerk, was better paid, had hopes of early promotion, was moved after not more than two years in one branch, and had every motive to concentrate on his office work instead of pursuing outside interests. The barrier between the divisions, i.e., between the administrative class and other classes, was more or less broken down. Relations were more human between all concerned. Minuting on files was discouraged. Decisions were taken after conference and talk. (Reference to the legal department had to be by formal minute and the opinion had to be on the papers.) The staff were encouraged to meet in golf or other sports. Golf matches were arranged between members of the staff and county clerks or town clerks. Sir Arthur Robinson, the Permanent Secretary, was very active on these occasions, on one of which, if my recollection is right, he beat the entire field in a match open to the whole Ministry. Excellence in golf was characteristic of the top men in the office. It has occurred to me that here we lesser men failed. The germ of inefficiency or mediocrity took possession when we were content in sport with feeble performance and habitual defeat.

Sir Robert Morant, to whose initiative the establishment of the Ministry in place of the Local Government Board is largely due, died in March, 1920, and I never came in touch with him. I have seen him on the underground railway reading an office file. I have seen his tall figure, as he walked from Victoria Station to Whitehall, still reading an office file. Rumour had it

that he worked twelve hours each Sunday. One minute by Morant addressed to the Chief Medical Officer I happened to see, a minute about tuberculosis. It showed something unusual in the high administrator, an effort to grapple with the technical detail of a subject generally left to the expert. His successor, Sir Arthur Robinson, was not such a glutton for work, but not on that account less efficient. He had a mailed fist beneath a velvet glove—a hard man, but not without a sentimental side. When he said goodbye in a moving speech to members of the staff in 1935, it is literally true that he shed copious tears. Once, when he gave me promotion as Assistant Secretary, he said: "Stick to general principles, don't bother much about details." I doubt whether Morant would have given this advice, or a subsequent Permanent Secretary, Sir John Maude (1940-45); certainly not a worker in physical research, for instance the discoverer of penicillin. On manners and morals Sir Arthur's outlook was early Victorian, so it seemed to me when rebuked by him for unorthodox methods of seeking air and exercise.

*Sir Gwilym Gibbon*

No one was more active than Sir Gwilym Gibbon, whose name was once well known to the Institute, in promoting the reforms of internal management initiated by Morant and Robinson. Indeed he carried them to extremes. Any subordinate who brought to him for approval some scheme, for instance a scheme involving capital expenditure by a local authority, had to undergo the most searching cross-examination on the financial aspect, the technical aspect, the prospects of the district or town concerned, were there thriving or decaying industries, and so on. Obviously it was better to decide the issue oneself, if at all possible. Being thus saved from too much case work, Gibbon was able to concentrate on general principles, for instance he was a pioneer in elaborating systems of comparative costing of local authorities' expenditure, applied at first to such grimy subjects as collection and disposal of refuse and sewage disposal. I was not myself convinced at the time that the results were worthy of the labour involved. If bad apples and good apples are mixed, the bad are more likely to corrupt the good than the good to freshen up the bad. A kind of Gresham's Law is involved. Good results can be obtained only if there is close supervision at the centre.

In an article in the Spring, 1948, issue of this *Journal*, Dame Evelyn Sharp describes the desire for perfection as the occupational disease of civil servants. Dame Evelyn had once worked under Gibbon. If a brief or memorandum were taken to him, he would say: "This is good, let's see if we can improve it and make it a work of art." Sir Kingsley Wood, as Parliamentary Secretary, once described a brief on the Bill which became the Smoke Abatement Act, 1926, as the best brief on a Bill he had ever seen. The Bill was not itself first class. The Act is about to be superseded. Better a second-class brief on a first-class Bill than a first-class brief on a second-class Bill. One of the few criticisms I have of the Ministry was the inordinate amount of time spent by the higher staff on briefs or memoranda painting the lily, setting out the obvious, and consuming energy which might be devoted to useful work and even to new discoveries. These briefs were often suggestions for speeches by ministers or other eminent persons. It

is strange that the civil servant is himself so seldom a good public speaker. As a responsible servant of the State he carries a burden on his back which weighs him down, like the burden which Christian bears in the *Pilgrim's Progress*. Moreover he is impeded by the habit of deadly accuracy (*pace* Crichel Down), a habit particularly grievous to one concerned with the labyrinthine maze of English local government. The bureaucrat within his own sphere has, of course, no need of rhetoric. For him *sic volo, sic jubeo* is enough. It should be mentioned to Gibbon's credit that his cross-examinations, severe as the ordeal was, developed acute brain power in those strong enough to survive them. Of those who worked some time or other under Gibbon, three, including the first woman Permanent Secretary, became Permanent Secretaries. Two became Deputy Secretaries, one a Registrar General, and one, now deceased, Clerk to the London County Council. Gibbon was somewhat masterful when he received in deputation eminent representatives of outside interests. I compared him then to Tamberlain the Great in Marlowe's play, driving a chariot drawn by four kings.

In the part of the Ministry presided over by Gibbon, who very much favoured devolution of responsibility, the Principal was a real centre of power. The Assistant Secretary was uncomfortably wedged between the Principal and the Principal Assistant Secretary (now called Under-Secretary). In giving decisions the Principal might have at his elbow an engineering inspector or other expert to advise and keep him right. The senior engineers had often in the past held local public enquiries in matters which concerned the whole of local government and had therefore a range of knowledge much in excess of their own speciality. A notable instance was the Chief Engineer, the late Sir Roger Hetherington. As a Principal I had assigned to me sewers, drains, refuse collection and disposal, nuisances of all sorts, smoke and other atmospheric pollution and, as counter and consolation, I had pleasure grounds, pavilions, open spaces, playing fields, swimming baths, gymnasia and other aids, outside the purely medical, to physical fitness. Consolation is not perhaps the right word. As in Shakespeare and other creative artists, the ugly no less than the beautiful stimulates mind and imagination. There was much else besides. Roads had been transferred from the Local Government Board to the newly created Ministry of Transport, but the Ministry of Health retained many functions concerned with streets and highways. When still a Principal, I expended much labour on parts of the Local Government Bill dealing with those subjects which passed into law as Part III and Schedule I of the Local Government Act, 1929. This lengthy Schedule with much besides passed, if I remember rightly, through the Commons under the guillotine and then without amendment through the Lords.

A few more words about Gibbon. Theoretically he was all for liberty and independence of local authorities. So he expressed himself as in 1922-23 he prepared, in conference with some of us round his table, a brief for the Onslow Commission on Local Government. In practice when he dealt with particular cases he was something of a bureaucrat, that is in cases where the Ministry had control, as in the sanctioning of loans. The local authority might wish to carry out a work by direct labour. No, they must go to contract. They might wish to install in a proposed swimming bath a certain method of

filtration. No, they must install a method more favoured by the Ministry's engineering staff. Being inclined to support the local authority, I would murmur in discussion " government with the consent of the governed," but this interjection was impatiently brushed aside. As indicated already, his methods of argument were forceful. Sir Arthur Robinson insisted that normally Gibbon should consult him by formal minute, thereby saving much time and avoiding damage to chairs and tables. I was present at an interview with Sir Malcolm Delevingne of the Home Office when Sir Malcolm implored Gibbon to spare his furniture. Gibbon was very fond of conferences. As he declined to read a file, even a file with an important report of some local inquiry, he would summon to a conference the inspector who held the inquiry, the chief inspector, a solicitor if legal, a doctor if medical questions might be involved, an Assistant Secretary or Principal, and perhaps an Assistant Principal or staff clerk. Whether this meant actual saving of time is doubtful. But members of the staff, lay and professional, got to know one another. There was in general a quickening of tempo and a liveliness all round. We took ourselves very seriously—how seriously I was reminded when I looked at a review, initialled W. R., which I wrote for the October, 1932, issue of this *Journal* on a book on local government by Professor Robson.

When we had both retired from the service I sometimes invited Gibbon to lunch at the National Liberal Club. Gibbon's lunch cost little—one pint of ale and nothing else. There were few subjects I then found which he did not know or at least claim to know. Hume was his favourite philosopher. His literary style, he said, was based on Hume. In religion he was an agnostic, but with keen admiration of Schweitzer ; in philosophy a pragmatist (" Hegel mainly verbiage ") ; as to politics and the welfare state, he inclined in the end to be pessimistic and to see the approach of economic disaster. He retired from the service in 1935 and died in February, 1948. He was honoured with a knighthood shortly before retirement.

### *General Observations*

The following observations based on past experience touch briefly questions that have been discussed recently in this *Journal* and elsewhere, particularly as they arise out of the Crichel Down affair. Before arriving at a decision on any controversial matter it was the practice of the Ministry, as also of the Local Government Board, to hold a local inquiry by an inspector of the Department which any person interested was invited to attend. The report of the inquiry was not published, but the grounds of the decision, whether the inspector's recommendation was followed or not, were explained by the Ministry in the letter of decision, particularly in cases of a judicial or semi-judicial nature. In cases of the last type the letter of decision passed through the legal department, partly as a safeguard against excessive zeal on the part of the administrator. The Ministry have been much criticised for failure to publish inspectors' reports. The reasons for not publishing are set out on pages 99-100 of the annual report of the Department for 1928-29. It was thought sufficient to quote the remarks of Lord Shaw and Lord Moulton in *Local Government Board v. Arlidge* (1915, A.C. 120). Both were strongly opposed to publication, and Lord Parmoor concurred. If the

report were published, the whole file would have to be published. There would be serious interference with the work of the Department in carrying out most delicate and difficult tasks, and conflict with the true theory of complete parliamentary responsibility. I have a clear recollection that Neville Chamberlain wrote a minute in his own handwriting agreeing with the departmental practice. The specimen of his handwriting in Keith Feiling's book rings a bell in my memory. I have a note also of page 126 of the annual report for 1929-30. This illustrates by example the practice of the Ministry in setting out the grounds of a decision. It should be mentioned that when an inquiry was held on a matter of very wide public interest, it was sometimes held by a person of legal or other eminence outside the Department with the assistance of one or two other persons, who might or might not be officers of the Department. The report was published. Examples are the report into an outbreak of typhoid fever at Croydon in 1937 and the report on the anti-tuberculosis service in Wales and Monmouthshire published in 1939. The latter very elaborate report is a corrective to any undue complacency as to the achievements of the Central Department or the local authorities between the two wars. The spasmodic demands for economy had some effect in suspending the work of supervision or control (such as it was) of the Department even in essential matters of sanitary administration.

Burns's warm commendation of his private secretary has been mentioned already. I can recall no reference to private secretaries either in Sir Andrew Clark's report or in any report on Crichel Down or comment afterwards published. In the Ministry of Health, when once the political level had been reached, the vigilance of the private secretaries and particularly of the Minister's secretary seldom or never allowed any incorrect statement of fact to reach the political chief—and, once danger had been scented, the Minister's private secretary would have ensured that he, the private secretary, saw the papers at each stage.

One more point. Professor Hamson, in the Winter, 1954, issue of this *Journal*, suggests that disputes between a Government Department and a private citizen should be referred to an impartial tribunal, like the Conseil d'Etat in France. If the main issue were excluded from such a tribunal, as it was excluded from the reference to Sir Andrew Clark—i.e., whether the land should be retained as a model farm or offered for sale to the original owners—in that event Commander Marten and his compeers would have little or no interest in the findings of the tribunal. If the main issue were not excluded, an outside tribunal would decide questions of general policy, not the Minister who is responsible to Parliament for that policy. I recollect that when the Bill which became the Land Drainage Act, 1930, was first introduced in Parliament (House of Lords), it provided for references of certain disputes to such a tribunal as that indicated. The Bill, sponsored by the Minister of Agriculture, followed in this respect the recommendations of a Commission or Departmental Committee on Land Drainage, but an official of the Ministry of Health, I think Sir Arthur Robinson, observed that a serious constitutional issue was involved and, in the result, the Bill was amended so as to provide procedure by Order of the Minister or Provisional Order, thus preserving to the Minister and Parliament responsibility for determining disputes which might well involve issues of general policy.

# *Public Service Training in the Past Decade*

By F. J. TICKNER

*As Deputy Director, Public Administration Division, United Nations Technical Assistance Administration, Mr. Tickner is in a very good position to survey recent developments in public service training in various countries.*

THE editor has asked me to review world developments in public service training during the past decade from the international vantage point of the United Nations, and it is hard to realise that nearly twelve years have gone by since the Report of the Assheton Committee on the Training of Civil Servants was published in London and ten since the opening of the Ecole Nationale d'Administration in Paris.

### *France*

I propose to begin with the Ecole Nationale because from a world standpoint it has one particularly significant feature. It is essentially the training ground for a profession and it takes its place alongside the great French professional colleges such as the Ecole Polytechnique, the Ecole des Mines, the Ecole des Ponts et Chaussées, or the Ecole Nationale d'Agriculture. The importance of a civil service being truly a profession, with professional standards of conduct and performance, independent of political influences and political appointments, may be taken for granted in Western Europe, but in many parts of the world the formation of a professional civil service is still a very distant solution for the difficulties which hinder good administration, although in the end it may prove to be the best solution.

In its endeavour to secure for France a professional administration, the Ecole Nationale recruits and then trains young "administrateurs civils," "auditeurs," and diplomats by means of a rigorous course of studies, lasting three years, a period which some critics consider too long. Unlike new Assistant Principals, young French administrators apparently do not strain to be up and doing live work from the moment they leave the university. Members of the directing staff hold the opinion that the long training period is essential to gain a full appreciation of the whole range of government and so to break down the excessive departmentalisation of the past, and they take it as a sign of grace that former pupils "tutoyent" one another in inter-departmental telephone conversations.

Students do not, of course, spend the whole of the three years in Paris. For the first year they are attached to the staff of the Prefect of a Department—or of an administrator in North Africa—in order that they may see the full range of governmental activities, functioning at the local level. Then they return to the school for a year's course in administration; in economic, financial and social affairs; and in contemporary political and cultural developments. During the second year each student begins to specialise in the sphere of administration in which he proposes to serve; for this purpose the school is divided into four sections: general, diplomatic, economic and social. In the third year he is given practical experience directly related to his future ministry.

We must accept the choice of a three-year period as a French affair. Internationally we can see in the school a successful contemporary attempt to maintain a professional service by means of objective selection and by a really lengthy period of training. It is thus a most significant example for any country wishing to adopt similar methods. Originally the director intended to associate the school even more symbolically with the administrative traditions of France by locating it in the Grande Ecurie at Versailles, but a thrifty Treasury found a cheaper home for it in an attractive town house in the Rue des Saints Pères.

### *United Kingdom*

In the United Kingdom people are less conscious that the problem of a professional service is still a contemporary issue. Even with the greater latitude in political matters recommended by the Masterman Report, a politically neutral civil service is taken for granted, and in British terminology the word *professional* has a specialised and narrow meaning in the public service.

Influenced by the Assheton Report, the British service has followed, perhaps without realising it, the tradition of craft apprenticeship, which has been so strong in the country since medieval times. New Assistant Principals are given a general course lasting three weeks, in decisive contrast to the French three years, but they learn their craft mainly on live work under supervision. Later on they progress to private secretaryships, usually reckoned excellent experience; in a few departments they become clerks in residence and, like good apprentices, sleep in the shop.

New Executive Class officers and entrants into many other grades learn in the same manner by experience. For technical groups, telephone operators, post office counter clerks and the like, there are ingenious and effective training methods designed to avoid live work until the recruit is reasonably proficient, but for the most part newcomers acquire their experience empirically or, to use the jargon, " learn on the job."

In local government there has been a similar readiness to recognise the importance of training, with a certain emphasis on courses and examinations organised by bodies outside the service itself, though intimately related to it, as for example the Institute of Municipal Treasurers and Accountants. A Local Government Examinations Board was established in 1946 to hold examinations for entry to the General Division and promotion to the higher grades.

At more senior levels the decade offers three other significant innovations in training in the United Kingdom. The first is the Administrative Staff College, using the syndicate method whereby the students explore the subject for themselves by the technique of a committee of enquiry, an innovation which has attracted attention throughout the world. The course is designed for rising executives at an age when they have not yet assumed the highest responsibility, and the college accepts members from a wider field than the civil service. It has so far had more influence on higher training in industry and banking than in Whitehall. The second innovation is the Diploma in Public Administration of London University, now so exacting

as to be of real academic standing. It offers the practitioner in administration a useful opportunity of systematic study in the university tradition without the need for temporarily relinquishing his post. So far it has not attracted many candidates. Finally there is the Police College at Bramshill, interesting because of its innovations in teaching methods and for our present purpose important because it seeks through training to achieve common standards and techniques amongst police forces which by their very nature are independent administrative units.

The increasing importance of the Royal Institute of Public Administration as a focal point for developments in administration in central and local government and in the nationalised industries is another important feature of the past ten years.

*Switzerland*

If we look further afield in Europe, Switzerland is particularly interesting because it has a public service which is not organised as a professional body but, like the Swiss army, as a militia. Administrators move from cantonal to federal service, and from business to government; their appointments are subject to reconfirmation at short periods—every three years in the federal civil service. Organised training within the service is limited to technical departments like the Customs administration, the P.T.T. and the Federal Railways.

To meet the needs of the individual passing from one phase of Swiss administration to another, the Handelshochschule at St. Gallen has developed a range of studies designed to prepare him for his new appointment. Training is thus auxiliary to recruitment and not subsequent to it. In addition the school arranges short courses on the problems of the administrator, attended by federal, cantonal and municipal officers with the encouragement of their administrations. The staff of the school organises and guides the sessions, but the discussion leaders are experienced practitioners from federal or cantonal service. St. Gallen is not geographically a good centre and the courses are repeated at various cities in all three language areas of the country. The subjects vary from civil defence to taxation, from the civil register to the administration of justice and the encouragement of art.

*United States of America*

In contrast to developments in the United Kingdom and France is the entirely different approach to public administration in the United States, where the emphasis is on training at the university stage. One reason for this is the existence of forty-nine separate civil services, federal and state, besides innumerable smaller administrative units; another is the absence of a truly professional service. Recruitment of civil servants by examination to avoid political patronage is, of course, a familiar practice in the federal service and in those of progressive states like New York and California, but even federal appointment is still mainly political in the highest ranges, and in many of the states it is even more so.[1]

With the important exception of the Hoover Commissions, the impetus for civil service reform has mainly come from outside the administration. The Civil Service League, the National Municipal League, the Civil Service

Assembly of the United States and Canada, and other such organisations have been active in the promotion of better standards of administration, and the universities, in giving expression to the movement for reform, have played a large share in its development. It is no coincidence, for example, that Dr. Emery Olson was at the same time Chairman of the California State Civil Service Commission and Dean of the Faculty of Political Science at the University of Southern California, and that in the development of administration in the United States the name of Professor L. D. White, of the University of Chicago, probably corresponds nearest to that of Sir Warren Fisher in the United Kingdom.

Thus in the United States there is a widespread and conscious effort, which has grown in strength during the decade, to improve both federal and state administration through university studies, and it has become a widely accepted practice for the intending recruit to the civil service to spend an extra one, two or even three years at the university on post-graduate study for an advanced degree in political science and public administration. The Junior Management Assistant Examination, designed as a means of entry for future senior officials, tends to assume previous education of this character and gives emphasis to current affairs and public administration.

Education in administration is taken to a more advanced stage at certain universities which offer a doctor's degree in public administration. As in British universities, advanced degrees cannot be obtained without residence in the university town, and many senior practitioners cannot leave their work for a period of study. There is nothing available with the flexibility of the London Diploma, which candidates may take as external students and for which active participation in administration is an essential qualification. This difference is, of course, to some extent offset by the wide geographical availability of university studies in the United States.

In the years since the war the Federal Government, with the aid of The Rockefeller Foundation, has given opportunities to senior civil servants for sabbatical leave in order either to travel, overseas or within the United States, or to pursue university studies in their special field; their selection is an award for distinguished public service. The Ford Foundation has also recently agreed to support the promotion of a programme of training for senior civil servants to be undertaken by the Brookings Institution, a research organisation in Washington which, since 1937, has taken a direct interest in the development of personnel in the federal service. In the words of its originators, this " goes beyond the mere teaching of administrative procedures, and instead develops the greater overall perspective and judgment required for wider decisions and actions." These studies are significantly to be " held outside Washington with participants living and working together."

Because the United States knows no rigid distinction between the university and the technical college, the universities have entered the field of technical certificate courses and even of in-service training. Some, like New York University, the University of Southern California, or Boston University, offer instruction in town planning, budget preparation, public health, police and fire service administration, and so on over a wide range of courses. Others, like the University of Syracuse in New York State,

co-operate with the state government in developing specialised courses for state employees. It is impracticable within the compass of this article to cover all the developments of the past decade in the United States since there are more than one hundred universities and colleges offering advanced courses in government and administration.

A further important development, which began more than ten years ago, is the Graduate School of the Department of Agriculture in Washington, where a relatively small permanent directing staff organises courses in various phases of governmental work, extending far beyond the Department itself, using as instructors leading practitioners from the federal service.

### *Canada*

The Canadian approach to the training of administrators[2] follows more closely the British pattern, although there is no administrative class as such. There is a preference for university graduates with degrees in political science and economics, and this has influenced recruitment and the development of university studies in these subjects. More recently courses in public administration have been developed at Carleton College, Ottawa, so arranged that members of the public service can attend evening classes. The main subjects required for the Graduate Diploma and the M.A. in Public Administration are political science, public law, economics, and Canadian history. There are seminars in provincial and municipal government and in the theory and practice of administration, but the vocational training of the public servant is left, as in the United Kingdom, to the Departments and to the central training unit, located in Ottawa in the Civil Service Commission.

### *Central America*

Closely associated in ideas with these developments is the Advanced School of Public Administration for Central America at San José, in Costa Rica, usually known as ESAPAC, from the initials of its Spanish name. With help from the Technical Assistance Administration of the United Nations, the five republics of Costa Rica, Guatemala, Honduras, Nicaragua and El Salvador collaborated in 1954 to establish the school as part of the programme of economic integration for Central America so that within its limited area it is working on an international scale. Each government, and the United Nations, contributes to the cost of operation, and Costa Rica has provided the necessary buildings.

At ESAPAC courses are for senior officials, all five countries being represented at every course. Each year there is one general course for which the participants are associated with the school for seventeen months. First there is a six-month period of preparation, during which students undertake prescribed reading and gather material for study, whilst carrying on their normal work. After this they spend five months at San José, in discussion groups or on project studies, with considerable individual direction from the staff. Finally there are six months of " controlled experience "; each student, again at his normal task, remains in correspondence with the teaching staff, members of which visit him occasionally to discuss the practical application of what he has learned.

Another feature of ESAPAC is its special courses, one in each year concentrating on a particular phase of administration such as, for example, municipal government and town planning, or Customs and port administration. The United Nations has helped the project by the recruitment of international members of the teaching staff from France, Mexico, the United States and Venezuela. The fact that all five countries use a common language, Spanish, has been a decisive factor in the success of the school, and it is encouraging that political disturbances in the area have not hindered its progress or interrupted its sessions.

ESAPAC provides only for senior officials, but it has inspired a growing interest in training at other levels of administration. Last July the Government of El Salvador opened a national training centre for administrative staff too junior for inclusion in the courses at San José, and in Costa Rica itself a training programme is being developed by the Directorate of the Civil Service. There is every hope that in due course all five countries will supplement the regional scheme by national training programmes.

### *West Indies and Puerto Rico*

In the nearby British West Indies a conference was held at Kingston, Jamaica, in April, 1955, to formulate proposals for training in public administration through extra-mural studies at the University College of the West Indies, as a necessary feature of progress towards self-government. Somewhat similar developments have already taken place in Puerto Rico, where the University at Rio Piedras has made a significant contribution to the building up of the new Commonwealth administration, and its courses, conducted in Spanish, have also been made available to students from elsewhere in Latin America.

### *India and Pakistan*

Two other, and larger, countries which have achieved full independence during the decade, India and Pakistan, have both set up training schools for administrative cadets in their federal services. The Indian Administrative Service Training School, which accepts forty to fifty students for each annual course, is located in New Delhi under the control of the Ministry of Home Affairs. Its pupils make study visits to district and sub-district administrations and to a number of other important centres. In Pakistan the Civil Service Academy at Lahore offers a general course lasting nine months, followed by six months' field experience in district offices and a further six months abroad under the Colombo Plan.

These courses are particularly interesting since they take the place, under very different conditions, of the training schemes for the former Indian Civil Service. In India the decision, taken on the eve of independence, to create an Indian Administrative Service, common to central government and to the States, set an immediate training problem. The new recruit to the Indian Administrative Service has to appreciate that he is no longer part of a system of government which, with all its ability, integrity and prestige, was alien to India, but is a servant of the public, within the framework of a parliamentary democracy. He must voluntarily accept stricter standards of

public and private conduct than are expected of an ordinary citizen ; he must learn one or more of the principal languages of India in order to be fully in touch with the people of the State in which he serves ; and he must understand the practical significance of the important economic developments which are taking place in India, as well as the evolution of the present-day institutions and administrative practices of his country.[3]

### *The U.S. International Co-operation Administration*

The United States pattern of administrative training has assumed international importance through its influence on the work of the International Co-operation Administration, which has more or less taken for granted that the university is the right point of entry to improve the administration of the so-called backward countries. The method usually followed is a contract between the local university and a university in the United States, whereby the latter supplies teaching staff and some equipment until the home university is in a position to take over full control of studies in public administration. To help in the training of local teaching staff, fellowships tenable at universities in the United States are offered as part of the technical aid programme.

This development has been encouraged by the great success of the first contract, made in 1953, between the University of Michigan and the University of the Philippines. This project has included undergraduate studies and a master's degree course, as well as in-service training, associated with the academic programme because the university is the only organisation with the necessary facilities for teaching.

The International Co-operation Administration is now offering ten graduate scholarships to Manila for qualified students from South-east Asian countries, and, inspired by this initial venture, it is arranging contracts on similar lines between the University of Southern California and the University of Teheran, New York University and the University of Ankara, Wharton College of the University of Pennsylvania and the University of Karachi, Pennsylvania State College and the Panteos School in Athens, the University of Indiana and Thammasat University at Bangkok, and the University of Tennessee and the University of La Paz.

### *The Contribution of T.A.A.*

The Technical Assistance Administration of the United Nations is also helping in the development of public administration in a number of countries. I have already described the successful Central American project. An earlier venture of this kind is the School of Public Administration established in 1951 in Rio de Janeiro under the auspices of the Getulio Vargas Foundation. This has an undergraduate course for potential recruits to the public service, part-time studies for more senior administrators, and a special course lasting four months and offering advanced and intensive whole-time instruction in practical administration. Special courses have already been attended by students from nearly every Brazilian state and territory, and from practically every country in Latin America. The development of a Brazilian teaching faculty by means of United Nations fellowships abroad has been particularly successful although international experts are still required for certain subjects.

A somewhat similar scheme was undertaken in 1952 in collaboration with the University of Ankara, and more recently the United Nations has assisted the Egyptian Civil Service Commission in the creation of an Institute of Public Administration, to become a training centre for the Egyptian public service.

In these projects the emphasis is on the training of the experienced administrator in the middle ranges of seniority, and staff is provided for both teaching and research. The work of the United Nations in the field of public administration is not confined to training programmes, but even where a mission was originally undertaken to advise a government on organisational changes made necessary by the impact of economic development on an administration not yet geared to deal with it, a training programme has almost inevitably been the consequence, because innovations can only be introduced after the necessary instruction.

The United Nations has to determine and to advise on the best " point d'appui " for innovations in administration, and one very serious difficulty is that in many countries there is no single organisation which can become the co-ordinating agency. A United Nations project which simultaneously makes use of more than one method of approach is in Israel, following proposals made by a Canadian expert. The Israeli Civil Service Commission is developing a departmental training organisation and, at the same time, a programme of studies in political science and public administration is being developed at the Kaplan School of Social Sciences in the Hebrew University.

An important problem, which has arisen in some United Nations projects, is the metamorphosis of a colonial administration into that of an independent state, involving a change from a centralised secretariat to a group of separate departments, each organised on the principle of ministerial responsibility. Independence usually finds the former colony with insufficient men experienced in higher administration at a time when the new government has to undertake new functions (foreign affairs, defence and so on), which increase the demands for senior personnel in an already difficult situation.

This problem exists, for example, in Burma where the position is even more complex because of the existence of a considerable number of public enterprises in addition to the usual range of government departments. Reorganisation and training schemes have to be introduced simultaneously and in the hope of finding a satisfactory solution the Government has accepted proposals which I formulated in the course of an official visit in 1954. With the help of British and Australian advisers it is now establishing a Department of Organisation and Training within the public service and at the same time proposing to set up the Union of Burma Institute of Management and Administration as the focal point for administrative developments of every kind. Last year the University of Rangoon for the first time included lectures in public administration in its academic programme.

Another feature of United Nations technical assistance is the programme of scholarships and fellowships. Courses in fiscal and tax administration have also been organised by the British Board of Inland Revenue in collaboration with the British Council, and by Harvard University, designed to meet the needs of students from countries which are receiving aid from the United Nations.

### *Latin America*

In October, 1955, an important Seminar was held in Montevideo under the auspices of the Government of Uruguay and the Technical Assistance Administration of the United Nations to discuss organisation and training in the public service. It was attended by participants from twelve other Latin American countries, as well as by a number of European authorities with experience of the region. Although the problems under discussion were examined primarily in terms of Uruguay, a broader approach covering the whole of Latin America was maintained throughout.

In many Latin American countries there is neither a professional civil service nor adequate university studies in political science and economics to form a real school for administrators. Apart from the actual ministers, the senior posts are as a rule filled by men with training in administrative law, appointed by the government of the day. History and political science, if they are studied at all, form part of a general arts course. Only in Mexico is there a strong university faculty of economics. Elsewhere economic studies are evolving within a discipline primarily directed towards accountancy or law.

Thus there exists simultaneously a need for a professional civil service, for suitable preparatory studies at the university, and for vocational training after recruitment. The Seminar showed that throughout Latin America there is a lively interest in seeking solutions to these problems and a readiness to study the experience of other countries. For example, the Northcote-Trevelyan Report has recently been translated into Spanish by two members of the Uruguayan public service. Even so, the basic dilemma remains; a professional service is not possible without suitable training, and suitable training is difficult to organise without a professional service.

In Mexico, after an unsuccessful attempt to introduce studies in public administration at the National University, an Institute of Public Administration has been established as a focal point for administrative developments, and perhaps at a later stage to become a nucleus for the organisation of training courses. In Brazil, as we have already seen, the Getulio Vargas Foundation has sponsored developments in administrative training, and there is a possibility that in Argentina too progress will at first be achieved outside the public service. In Bolivia the University of San Andrés at La Paz is taking the initiative with help from the United States.

It is premature to forecast the eventual development of training schemes in Latin America. Their most significant feature is the recognition that training and civil service reform must go hand in hand, and the trend away from legal studies reflects the change in emphasis in the functions of government brought about by the rapid economic and social development of these countries.

### *The Assheton Report in Retrospect*

In so far as it is possible to make a world survey in so short a compass, I have given some indication of the varied pattern of developments in administrative training over the last ten years. Now let us turn to the Assheton Report itself to see how this landmark in the evolution of training within the United Kingdom looks in the wider perspective of these events over the last decade. The critic necessarily approaches this document with diffidence, in view of its importance, and I propose to limit myself

strictly to the Report and not to discuss its subsequent interpretation.

The Committee was unusually fortunate in that few, if any, of its suggestions were disregarded. It caught the spirit of its times, which were propitious for cautious innovation. Many of its recommendations crystallised what was already general opinion; its terms of reference were so generously wide that it could attack its problem on the broadest front, and it expressed many opinions of which time has demonstrated the wisdom.

When one reads the document afresh after eleven years, the most striking fact is the very heavy emphasis on the need for training to improve dealings with the public. Much of the Report is an essay on the importance of good public relations to be achieved by effective preliminary training. This is interesting in a service which has never taken kindly to its formalised departments of public relations. The Committee's view is best expressed in the fifth paragraph, which says that since the service must continue to be more and more concerned with the affairs of the community, in the numberless ways which involve contact between government and citizen, "it is for the efficient performance of such functions that the civil service must be trained." And "the inculcation of the right attitude towards the public and towards business should therefore be one of the principal aims of civil service training."

Thus the Committee makes the relationship between the civil service and the public the criterion of successful training. Since the doctrine of ministerial responsibility means that relations with the individual member of the public are primarily a departmental matter, the Report proposes a training organisation on the now familiar pattern of the Departmental Training Officer, the role of the Treasury being restricted to "general control and guidance." This organisational pattern has subsequently influenced the development of training in Canada and Australia, and indirectly in Israel, but in Ottawa the central co-ordinating body is the Civil Service Commission and in Canberra the Commonwealth Public Service Board.

The idea of a central training institution, loosely described as a Staff College, was included as a specific point in the Committee's terms of reference. With some apparent confusion of thought, the Committee toyed with the concept of a central institution for the initial training of all civil servants, but rejected the idea, arguing that it "has only to be mentioned to be seen as impracticable" since the entrants to the service are yearly far too numerous. The Committee again seems to have thought primarily of training recruits.

It went on to say that the term Staff College had "as yet no precise significance," that by the analogy of the military staff college it would seem to apply to those likely to reach high office, and that the idea, as suggested by witnesses, had two variants, a government college for members of "all the Crown services," and a "national administrative staff college" with students drawn from all walks of life.

On the question of a "national administrative staff college," the Committee made three points. It stated explicitly that its ideas did not coincide with those of the advocates of such a college, since it mainly had in mind the training of new entrants. It also said that "it is extremely difficult to find a firm foundation on which could be based a method of teaching administration common to both business and the civil service," a statement which might pass unchallenged in some circles in the United States, but has been

completely falsified by the success of the Administrative Staff College itself, and it agreed that if the national college came into being, civil servants might well attend the course as an experiment. This has since been done with useful results, but the number of places open to civil servants must inevitably make it no more than an auxiliary phase of civil service training.

The alternatives suggested in the Report to attendance at a " national college " are of considerable interest. Secondment to outside business and short-term visits of observation are discussed, but are in effect discarded as impracticable. Opportunities for experience of local government activities are suggested as more hopeful. Sabbatical leave and travel abroad are recommended, and although the suggestion has been followed up with useful results, it is difficult to see how it can ever become a major factor in training, since the opportunities are severely limited. In this connection it would be interesting to know what view the Committee would have taken of the appointment of civil servants as experts in the technical assistance programme of the United Nations.

On the more major issue of a governmental college, the Report is far from specific. There is no explanation of what is meant by the phrase implying that it might be attended by members of " all the Crown services." The Committee was convinced that the training requirements of the civil servant are in the main most effectively given departmentally and the main proposal for an interdepartmental course is for Assistant Principals at the outset of their career. Only in terms of its suggestion that " there comes a time, normally we suggest, in the early 'thirties, when either a complete change of environment or an opportunity to stand back from one's job and to shake oneself free from the daily routine is most desirable in order to gain a broader vision and some fresh experience," did the Committee consider the need for giving the individual an insight into the work of other departments and specialisations, and then its proposals were mainly for sabbatical leave.

This seems to ignore the experience of the military staff colleges, where one of the purposes of the course is to widen the experience of the students and their appreciation of other arms of the service than their own. Since the Report was issued the success of the Police College at Bramshill has demonstrated the value of senior officers studying wider problems of police administration and gaining a less parochial outlook by meeting members of other forces throughout the country. Several of the banks have also organised successful courses of studies in management for the manager designate before he is allowed to take general charge of a branch. It would seem equally valuable for the rising administrator to study general administration problems, particularly those involving interdepartmental co-operation and technological change.

The Committee, by restricting itself mainly to the clerical, executive and administrative classes, omitted to give its attention to one of the most difficult administrative problems of any country, the relationship between the administrator and the professionals in the technical sense of the word. The scientist, the engineer and the other " technicians " are playing a more and more important share in the work of government, and unless the administrator can appreciate their technologies in their full implications, their partnership may be an uneasy one. I found this as true in Burma as in

Western Europe. There would seem to be a need for a training period during which each would learn to understand the function of the other. All of them could also give some study to general economic and social problems.

In its paragraphs on centralised training the Report speaks antithetically of the civil servant and those " outside." In fact the civil service contains a cross-section of the professional life of the nation wide enough to offer an outstanding and challenging opportunity for courses on general administration with groups of students so interesting and diverse that each would find participation a stimulating and worth-while experience.

It is also clear that the Committee avoided the issue of residential training. For Assistant Principals it suggested a course more or less full time for a fortnight and thereafter part time. There is enough experience available in our world-wide survey to suggest with confidence that for a really effective senior course the students must be separated from the departmental routine and the departmental telephone. They must be together long enough to profit by the experience. The three years at the Ecole Nationale may be too long a period and two to three months, the traditional university term, may seem a more realistic approach. Students must have ample opportunity to continue the discussion out of hours and at all hours for only thus will they be fully able to " s'enrichir de leurs différences."

The Committee's proposals for further education are entirely admirable and have largely been implemented. Its comments on training for supervision draw attention to a problem on which a good deal of work has since been done. The implications of its proposals for training in personnel work are also of considerable interest as it suggests that " training in establishment work is a desirable preparation for higher positions involving control of staff." This implies that courses in personnel management should not be limited to specialists, but should form part of the administrative education of all potential senior staff. There seems no reason why this particular subject should be given special treatment. It should be included in a more general advanced course in administration; we have found this appropriate in the training programmes developed with the help of the United Nations.

Beyond the brief phrase that " money spent on training will show a good return," the Committee gave no indication of its views on the question of how much should be invested in an activity which can never be assessed in terms of profit and loss. The educator is always at a disadvantage in trying to justify financial support for a programme based largely on intangibles. We may assume, for example, that William of Wykeham founded New College with a greater belief in the value of education than his balance sheet could show and events have justified his faith. A similar faith in the value of public service training exists today in many parts of the world.

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[1]The reasons for this situation are beside our present point. The reader will find them summarised in *The Federal Government Service: Its Character, Prestige and Problems*, published by the Columbia University Press for the American Assembly.

[2]Admirably described in a paper given by Professor Alexander Brady at Montreal in 1952, at the annual conference of the Institute of Public Administration of Canada, and printed in the proceedings of the conference.

[3]An interesting article on the " Training of the Indian Administrative Service " by S. B. Bapat was published in the *Indian Journal of Public Administration*, Vol. I, No. 2.

# *Community of Interest and Local Government Areas*

By F. H. W. Green

*Community of interest was one of the factors which the Local Government Boundary Commission were requested to take into account. This article shows how the recently published Local Accessibility Map combined with statistics of retail sales may be used to indicate different degrees of localised interest. In publishing it we are, of course, aware that not all the towns mentioned will agree with Mr. Green's analysis or conclusions.*

## *Introduction*

V. D. Lipman, in an article in this *Journal* in 1952[1], gave a review of recent work on urban hinterlands. Many have drawn attention to some of the applications of this work to practical affairs of all kinds, and both Lipman and Professor E. W. Gilbert[2] have pointed out the special relevance of these studies to the question of local government boundaries. A contribution of the present writer has been to demonstrate how bus traffic provides an excellent index for delimiting urban hinterlands[3], and the Local Accessibility Map designed by the writer and recently published, with an *Explanatory Text*, by the Ordnance Survey[4], portrays in effect, for the first time, the hinterlands of local centres for the whole of Great Britain. A brief indication of what the map shows is printed on the face of each sheet, and it will be useful to quote this in full:

" *Centres:* A town or village is defined as a centre if it has operating from it at least one bus service which serves no place larger than itself.

" *Hinterlands:* The hinterland of a centre is that area which is more accessible to and from its centre than any other. The boundary is determined by reference to the fullest normal bus services, e.g., those on market days or Saturdays, but excluding special services for works, schools, etc.

" *Subsidiary Centres and Hinterlands:* A subsidiary centre qualifies as a centre by the definition above, but its hinterland is almost equally well served by buses from a larger neighbour and is, therefore, shown as a subdivision of the hinterland of that main centre. The population of a subsidiary centre and its hinterland is included in that of the main hinterland.

" *Grades of Centres:* The centres range in size and importance from very small settlements to large towns and cities. The map is concerned only with those areas, or hinterlands, from which regular and, in general, frequent visits are made to these centres which all perform similar general functions, such as the provision of shopping, entertainment, cultural and professional services. These, though of a type superior to those in surrounding areas, are not always highly specialised. For services of a more specialised nature or of a higher

standard many towns which are also regional or provincial centres serve much larger areas covering a number of centres and hinterlands shown on the map."

With reference to *grades of centres*, the present writer[3] and others have postulated five orders of centre, as follows :

| | |
|---|---|
| First Order | — Metropolitan Centre. |
| Second Order | — Provincial Capital. |
| Third Order | — Major Regional Centre. |
| Fourth Order | — Ordinary Regional, or District, Capital. |
| Fifth Order | — Service Village. |

What the map shows is *Fourth Order* centres, and this terminology will for convenience be used in this article. The hinterland boundaries shown on the map indicate for each locality, irrespective of what administrative area it lies in, which is the centre most easily accessible to it and thus, by implication, its main centre of interest.

This new map is an excellent, in some sense even an essential, tool with which to fashion valuable conclusions from various kinds of raw, or partly fashioned, material. Particularly valuable material is the Board of Trade Census of Distribution of 1950[5], published three years ago.

J. B. Fleming has demonstrated in a recent paper[6] in the *Scottish Geographical Magazine* that the average annual sales per shop, from Table 1, Volume I, of the Census, plotted against population figures, are the most directly useful aid to classifying towns, and indeed, any administrative units. His paper helps, among other things, to refute the assertion, which has often been made, that studies of town and hinterland relationships applicable in rural, agricultural areas necessarily break down in largely industrialised districts. This article aims at showing the kind of conclusions that can be reached by the joint use of the map and the Census.

It takes the West Riding of Yorkshire as the example because that area is so highly urbanised. What follows is a first attempt to examine what light the retail sales figures throw, first on the extent to which one town acts as a centre for surrounding areas, and secondly on the intensity of the community of interest in an area. It is primarily an essay in methodology, but in the course of it the conclusions drawn for the West Riding may not be without interest to those concerned with the possible revision of local government boundaries.

### *The Position in the West Riding*

The Local Accessibility Map, published by the Ordnance Survey, shows 42 centres (including 11 subsidiary centres) in the West Riding. Of these, ten are too small as towns to be separately listed in the Census of Distribution. As there are 77 County Boroughs, Municipal Boroughs or Urban Districts within the area, this means that no less than 45 fail to qualify by the criterion used. It is therefore interesting to examine all these towns in the light of the data provided by the Census of Distribution.

It is reasonable to assume that if other variables remain constant or are quantitatively negligible, any towns where the annual sales are greater than those for the county, or country, as a whole, must act as shopping centres for some people living outside their boundaries. The other variables include *per capita* income, age structure of the population, and the pattern of retail outlets. In the argument which follows, the existence of these variables has been kept in mind, but in the West Riding of Yorkshire the only important exceptions for which they appear to be responsible are in the sales figures for the very specialised shopping of Harrogate and Ilkley. Nevertheless the degree of finesse which is permissible in manipulating the census figures is limited, but it is believed that in this paper the margins of error have not been overstepped.

The *per capita* sales average for the West Riding and its " associated County Boroughs " is £115 5s. per annum, and for England as a whole it is £120 5s., the difference between these two figures being for present purposes insignificant. It is found in fact that every town in the area of the West Riding with a sales figure higher than £120 is shown on the map as a centre.

It is very doubtful whether it would be justifiable to assume *per contra* that every town below the national or county average did not function as a centre, and inspection of the map immediately shows this doubt to be well founded. But it is found that, with three exceptions, where there is a readily explainable statistical anomaly due to " irrational " administrative boundaries (of which more below), the 43 towns with a sales figure below £85 do not appear as centres on the Local Accessibility Map. Between £85 and £120 per head there are some towns which qualify as centres and some which do not. Is there any significance in a figure of about £85? It can readily be shown that there is, for indeed £88 is the average (£86 is the median) sales figure for the town-plus-hinterland population of those towns which do act as centres. The average figure for towns and their hinterlands for the whole of England is £91 (the median is £89), and Fleming[6] has shown that the comparable average figure for Scotland is also £91, and it may thus be assumed that this is somewhere about the average figure for sales at the Fourth Order Level, i.e., excluding the specialised purchases in centres of a higher order. It may be expected that centres with a sales figure for town-plus-hinterland at, or slightly below, this level are used by people in the neighbouring areas for some shopping purposes, but the numbers who do so are balanced, or slightly exceeded, by those living in the town, who do some of their own shopping elsewhere. But it is logical to assume that a place where the sales figure *for the town alone* is below this level would not be acting as a centre. This reasoning seems to be amply confirmed by the fact that in the West Riding the towns below the £85 level are not centres.

The towns between the £85 and £120 levels merit special consideration. Seven of them appear on the map as centres (two being subsidiary centres), and eight do not. The map may be incorrect, but first of all the effects of arbitrary administrative boundaries must be considered, and one can also consider here the three centres which are below the £85 line. These three (Spenborough, Pudsey and Holmfirth) can immediately be seen, from a large-scale Ordnance Survey map, to be large administrative units, and/or to include a large rural area, with village shops, within their boundaries. Thus Spenborough Urban District contains the town of Cleckheaton which,

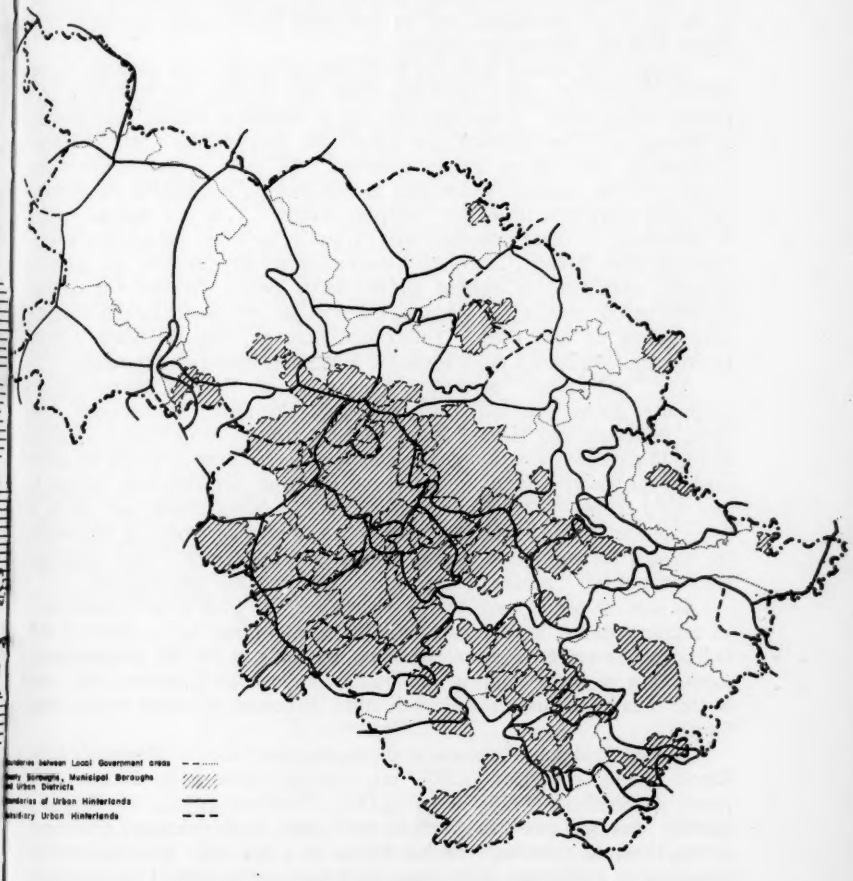
# YORKSHIRE — WEST RIDING

(FIGURE 1)


The hierarchy of towns in the West Riding. The hinterlands of towns acting as *district centres* are shown, irrespective of whether a town acts also in a higher capacity. The scale of this map is approximately 15 miles to the inch.

## YORKSHIRE—WEST RIDING

(FIGURE 2)




The relationship of local government areas to the hinterlands of *district centres*. The boundaries between Rural District Council areas are shown by fine dotted lines and those between Borough Council and Urban District Council areas by dashed lines. The scale of the map is approximately 15 miles to the inch.

if its population and shops were considered alone, could well be expected to lie above the £85 level. Holmfirth Urban District contains a considerable rural area, and the statistics for the centre itself are not separated in the Census, while the Borough of Pudsey contains several small nuclei the figures for which are not distinguished, though one of them probably qualifies as a centre. Of the centres between £85 and £120, Morley is similarly situated to the three last mentioned, and its real town centre would probably rate higher than the borough as a whole.

Shipley and Elland probably have low *per capita* sales through being almost suburbs of, and readily accessible for shoppers to, Bradford and Halifax respectively. Knaresborough has a somewhat similar relationship to Harrogate. The relatively low figures for Todmorden, Castleford and Mexborough are not so simply explained. All three administrative units contain " work centres," which may in this case be responsible for greater passenger movement than their shopping centres. This is a feature which is commoner in other counties, with a less established industrial pattern than the West Riding; in North Gloucestershire, for example, the aircraft factories established in isolated places shortly before the last war collect workers by bus from a very wide area, but as yet few service establishments have sprung up near them. Todmorden Borough, like Holmfirth Urban District, also contains a fairly extensive hinterland within its boundary.

The " non-centres " between £85 and £120 are: Baildon, Barnoldswick, Brighouse, Earby, Hebden Royd, Horbury, Horsforth, Stocksbridge. Of these, Brighouse and Hebden Royd (Hebden Bridge), with figures of £101 and £117 respectively, would seem to fail to qualify as centres by the criterion used in the Local Accessibility Map solely by the fortuitousness—which is rare for a centre—of their being served only by buses which pass on to a larger centre. This explanation holds true in part for some of the other six, though the consideration that some are " work-centres " and some are parts of built-up " suburban " areas must also be taken into account.

It is of interest to study the 21 towns above the £120 level. These have all unquestionably the status of Fourth Order Centres, but a study of the individual figures gives some indication not only as to the proportionate significance of their shopping function *vis-à-vis* other functions, but also of their relative status, *vis-à-vis* each other, as centres of higher orders than fourth.

Broadly speaking, the towns at the highest level such as Skipton (£223), Ripon (£208), Harrogate (£207), are relatively more isolated than such places as Sheffield (£125), Ilkley (£124), Pontefract (£122), or Keighley (£120). But the fact that Sheffield has many more functions additional to the shopping function than has Ripon does not make it *absolutely* less important as a shopping centre than the latter; rather indeed the contrary, since the large industrially employed (or " adventitious " population) in the Sheffield region has the purchasing power to support an absolutely, if not relatively, greater number of, and more specialised, shops than has Ripon.

The high figures for relatively isolated towns should also be considered in the light of H. E. Bracey's[7] conception of *intensive*, *extensive* and *fringe* areas. The *intensive* area is one in which the town reigns almost supreme as a service centre, the *extensive* area is where it is in roughly equal competition

with other centres, and the *fringe* area is where it is used by the local population for only a minority of services. It is to be expected, though it has not yet been demonstrated by Bracey's own methods (which involve a questionnaire), that those towns in the West Riding which are away from the so-called "conurbation" will have larger *intensive* areas than others. This may be correlated with the high figures for not only Skipton, Ripon and Harrogate, but also Doncaster (£193), Selby (£175), York (£155) and Barnsley (£154).

Three towns alone have a town-plus-hinterland shopping figure which is markedly higher than the national or county average. These are Harrogate, Bradford and Leeds, and it is at least arguable that these are the most important shopping centres in the West Riding, even though the *types* of shop may be rather different in the three places. The eight towns with a figure, for the town and hinterland, between £85 and £120, namely Skipton, Ripon, York, Halifax, Huddersfield, Sheffield, Ilkley and Keighley, can well be argued to be in the next rank. This argument is well supported by picking out all the towns in this group of 11 in which the sales figure for town-plus-hinterland is at least two-thirds as high as if the town population alone were taken into consideration. Such a method of selection gives Leeds, Bradford, Ilkley, Sheffield, Keighley, Harrogate, York, Halifax, Huddersfield, approximately in that order (though it would be rash to suggest that the order is entirely significant). The two lists are different only in that Skipton and Ripon are omitted from the second list; with the omission of the two latter, we could reasonably suggest that Ilkley, Sheffield, Keighley, York, Halifax and Huddersfield are in rank inferior only to Leeds, Bradford and Harrogate.

It is thus possible to postulate a hierarchy of towns, as retail shopping centres, as shown in the table below. There are, however, in Table 2 in the Census of Distribution (Vol. I) figures relating to number employed in Central Offices and Warehouses in the retail and catering trades. Only six West Riding towns appear in this Table. In order of the numbers of persons employed (shown in brackets) they are as follows:

Leeds (2,680).
Sheffield (1,333).
York (452).
Bradford (418).
Huddersfield (350).
Halifax (255).

The Leeds figure of 2,680 places it on a par with the figures of other towns generally considered to be Provincial Capitals[8], and the Sheffield figure places it among towns which are sometimes considered to be worthy of this rank. Harrogate and Ilkley are missing from this list; this is not surprising, since they are resort and residential towns having many highly specialised shops which, although different in types in the two towns, do not need to be served by central depots. Table 2 of the Census therefore indicates that Harrogate and Ilkley are in a specialised category, as in fact large seaside resorts also are, and they have consequently been shown by a special symbol on the map (Fig. 1).

None of this analysis takes into account the small centres and subsidiary centres, which, through not being boroughs or urban districts, do not appear in the Board of Trade Census. They are by no means all insignificant, as their hinterlands sometimes cover a considerable area. They are included in the following table, which shows the hierarchy of towns in the West Riding as retail shopping centres. The map summarises the information in cartographic form.

## CLASSIFICATION OF TOWNS IN WEST RIDING (MAINLY BY SALES PER HEAD)

*2nd Order—Provincial Capital*

Leeds
Sheffield (borderline case)

*3rd Order—Major, or Regional, Centres*

Sheffield (but see above)
York
Bradford
Huddersfield
Halifax
Harrogate, Ilkley } specialised shopping centres

*4th Order*—(*a*) *Town population over* 50,000
(*Town and hinterland population over* 100,000)

Barnsley
Dewsbury
Doncaster
Rotherham
Wakefield
Keighley (borderline, town and hinterland 100,000)

(*b*) *Ordinary centres*

Cleckheaton
Castleford
Goole
Mexborough
Otley
Pately Bridge
Pontefract
Ripon
Sedbergh
Selby
Settle
Skipton
Tadcaster
Todmorden

(*c*) *Subsidiary centres*

Bingley
Shipley
Heckmondwike
Thorne
Elland
Knaresborough
Wetherby
Holmfirth
Haworth
Pudsey
Boroughbridge
Dinnington
Morley

*also*

Hebden Bridge, Brighouse } Not on Local Accessibility Map

*Implications for Local Government Areas*

It is not proposed to enter here into the argument as to what degree of community of interest is desirable in a local government unit, but it would be fairly generally accepted that there is a minimum level which it is practically essential to ensure. In the present survey of the West Riding there are found to be six urban districts where the sales figure for the administrative unit, even neglecting any hinterland, is below £51, which is the average for the rest of the county, i.e., that part of the West Riding which is not included in boroughs and urban districts. (There are only 29 towns in a similar position in the whole of England, and only the West Riding, Lancashire and Staffordshire have more than two each.) These urban districts are Conisbrough, Darfield, Darton, Dodworth, Stanley and Worsborough. The shopping figures indicate that the majority of their inhabitants do not think of themselves primarily as citizens of these towns. They reside there, but they do a large part of their shopping elsewhere; and since shopping is a certain clue to many other interests, it can safely be asserted, even by one unfamiliar with these places, that they are lacking the normal degree of coherence, or of community of interest, which may be considered necessary in a local government unit.

Such an assertion could be less safely made about urban districts or boroughs, which have a *per capita* sales figure of over £51, yet it is certain that some of the places lying between £51 per head and about £85 per head are also lacking in coherence. It is possible that places at the £85 sales level may be centres in a limited sense; people may come in to them for certain purposes, while their own inhabitants move out of them to an approximately counteracting extent. Work centres, mentioned above, are often in this category, though there is a definite tendency for newly established work centres, unless they are overshadowed by a nearby existing large shopping centre, slowly to become shopping centres themselves; it is often convenient to shop where one works. In the West Riding, where the occupational pattern is in general comparatively old-established, only three places with a town figure of less than £85 qualify as centres according to the criteria of local bus services, viz., Spenborough, Pudsey and Holmfirth; a possible explanation for these has been given earlier. Attention might well be given to rationalising these three administrative units.

In addition to the six urban districts with *per capita* sales below £51, and the three just mentioned, there are 33 other places with a figure below £85 per head. They are as follows:

Adwick-le-street
Aireborough
Batley (M.B.)
Bentley-with-Arksey
Colne Valley
Cudworth
Dearne
Denby Dale
Denholme
Featherstone
Garforth
Hemsworth
Hoyland Nether
Kirkburton
Knottingley
Maltby
Meltham
Mirfield
Normanton
Ossett (M.B.)

| | |
|---|---|
| Penistone | Silsden |
| Queensbury and Shelf | Sowerby Bridge |
| Rawmarsh | Swinton |
| Ripponden | Tickhill |
| Rothwell | Wath-on-Dearne |
| Royston | Wombwell |
| Saddleworth | |

Most of these are urban districts, but two municipal boroughs (M.B.), Batley and Ossett, are included. The figures indicate a *prima facie* case for scrutiny when the revision of local government boundaries is being considered. It may be that some of them could well be added to adjoining urban authorities which contain a centre, or divided between such centres, for example, Sowerby Bridge U.D. joined to Halifax C.B.; Horsforth U.D. added to Leeds C.B.; Bentley-with-Arksey U.D. added to Doncaster C.B. Certain cases which are not far below the £81 line deserve special attention because the question arises as to whether community of employment or occupation interest is desirable in a local government unit if community or other interests are subnormal; places such as the woollen towns of Batley and Mirfield, or the mining centres of Tickhill and Wombwell, pose this question.

It might well be asked at this stage to what extent it is worth taking all this trouble to grade towns as centres instead of merely listing them in order of their census populations. An old-established industrialised area such as the West Riding does not show such great anomalies in comparing the results of these two different processes as do some other parts of the country. Yet, even in this county, a simple population count gives some striking differences from the order shown on page 46. Sheffield C.B. is in fact slightly larger than Leeds C.B., but it is beyond question that Leeds is the more significant centre of the two. Third-order towns in the West Riding are, however, picked out as those with populations over 100,000, though, as has been seen, the much smaller Harrogate and Ilkley deserve in some respects to be considered alongside them. Some bigger anomalies begin to appear at the Fourth order level. For instance, the Municipal Borough of Batley, and the Urban Districts of Aireborough, Colne Valley, Dearne, Pudsey and Rothwell, all have populations of over 20,000, but they cannot compare in regional significance with much smaller towns such as Selby and Skipton, or even with places like Tadcaster that have not even urban district status.

In so far as community of interest is an important element in the fixing of local administrative areas, this approach shows one way of measuring the intensity of such interest. It is an impersonal study and, as such, might be hotly contested in detail by those with an intimate knowledge of local allegiances and other factors, including the important factor of finance. But, to use a colloquialism, it at least puts the ball into their court.

*Note:* I wish to acknowledge the help of Mrs. Edna C. Tull, the draughtsman of the amps on pages 42 and 43.

[1]V. D. Lipman : " Town and Country " ; *Public Administration*, Autumn, 1952.

[2]E. W. Gilbert : *Geographical Journal*, XCIX, April-June, 1948.

[3]F. H. W. Green : " Urban Hinterlands in England and Wales " ; *Geographical Journal*, CXVI, July-September, 1950.

[4]Ordnance Survey : " Local Accessibility " map in 1 : 625,000 Planningh Seriwitsis Explanatory Text, Chessington, 1955.

[5]Board of Trade : *Census of Distribution*, 1950 ; Vol. I, " Retail and Service Trades," Area Tables, London, 1953.

[6]J. B. Fleming : " An Analysis of Shops and Service Trades in Scottish Towns " ; *Scottish Geographical Magazine*, December, 1954.

[7]H. E. Bracey : " Towns as Rural Service Centres : An Index of Centrality with Special Reference to Somerset " ; *Transactions of the Institute of British Geographers*, 1953.

[8]The others, in addition to London, as provincial capital for the South-East, are :

| | |
|---|---|
| Birmingham | (5,347) |
| Bristol | (1,637) |
| Leicester | (2,035) |
| Liverpool | (4,354) |
| Manchester | (2,953) |
| Newcastle-upon-Tyne | (1,788) |
| Nottingham | (4,696) |
| Plymouth | (1,015) |

Of these, Plymouth is a borderline case, while Leicester, on other criteria, is not usually considered to be of the same status as the remaining towns in this list. On the other hand, Norwich, though having a relatively low figure (204) for persons engaged in central offices and warehouses, is sometimes considered to be a provincial capital on other grounds ; Cardiff (459) in Wales has some claim to be of comparable status.

# *The Courts, Ministers and the Parliamentary Process*

By GEOFFREY MARSHALL

*The attempts to obtain an injunction against the Home Secretary during the parliamentary discussion of the draft Orders necessary to give effect to the recommendations of the Boundary Commission revealed the uncertain attitude of the courts to the exercise of certain kinds of ministerial action. Mr. Marshall, now a Research Fellow in Politics of Nuffield College, Oxford, surveys the present position.*

THE difficulty of getting governmental activities into the correct juridical pigeonhole for an attack on them in the courts to be effective is well known. Disputes have usually concerned the extent to which the concepts of "judicial" and "quasi-judicial" action could be applied to ministerial consideration of appeals against local authority or departmental decisions. Relatively less attention has been given to the nature of ministerial approval when it has a predominantly legislative rather than an appellate character (a distinction which it is not in all circumstances easy to draw).[1] Events of the past year have, however, invited a closer examination of this function as it is affected by:

(*a*) The relation of Ministers to Parliament; and

(*b*) The relation of Ministers to the Crown.

On two recent occasions the existence of a set of constitutional barriers between litigants and Ministers has been discerned in these relationships. In each instance similar issues were raised: first, the extent to which the jurisdiction of the courts may be ousted by the fact that an administrative measure is embodied in an order which has been, or is about to be, laid before Parliament; and secondly, the question whether Ministers laying orders under statutory authority are acting as Crown servants and are protected from an injunction.

The circumstances surrounding the attempts of December, 1954, to prevent confirmation of the English Boundary Commission proposals were very fully set out in Dr. Butler's article on the "Redistribution of Seats" (*Public Administration*, Summer, 1955)[2]. In the High Court, Roxburgh J. granted on an *ex-parte* application, an interim injunction restraining the Home Secretary from submitting orders (already approved by both Houses) to the Queen for assent in Council. He expressed the view that no question of interference with the legislative process arose, and that the immunity of the Crown from injunction could not protect a Minister acting under statutory authority.[3] Three days later the Home Secretary successfully appealed against this decision. The Court of Appeal (Sir Raymond Evershed, M.R., Jenkins and Hodson L.JJ.) discharged the injunction on the ground that the provisions in question were not in fact *ultra vires* the authorising statute; but the Master of the Rolls added that he did not think that the machinery set up under the Act left any room for judicial intervention at any stage. (Parliament could reject or modify the reports and if it adopted them it was unnecessary for the court to express its opinion of their validity). He also

felt some doubt (though expressing no final view) as to whether the action was not in effect against a servant of the Crown and therefore one which would not lie in view of the provisions of S.21 of the Crown Proceedings Act.[4] (The section preserves the immunity of the Crown from injunction.)[5]

A much stronger view has since been expressed on the latter point. In May, 1955, the formal pattern of *Harper's* case was virtually repeated. A draft scheme for the marketing of potatoes had been drawn up by the Potato Marketing Board, approved by the Minister of Agriculture and Fisheries, and laid before each House. An objector, who held that the scheme was *ultra vires* in that it went beyond the terms of the authorising statute (the Agricultural Marketing Act, 1931), moved for an injunction in the Chancery Division to prevent the Minister from seeking the approval of either House for the draft scheme, or from making any order based upon it. In was held (*Merricks v. Heathcoat-Amory* (1955), 1 All E.R. 453) that the Minister was acting as an officer representing the Crown, and that the court could not grant an injunction against him.

It is convenient to examine the issues relating to the Crown and those relating to Parliament separately. The formal and informal uses of these terms soon become entangled in arguments of a constitutional nature and there is a certain difficulty in separating out points of substance.

### *Position of the Minister*

In *Harper v. Secretary of State for the Home Department*, the plaintiffs contended that the report submitted to the Home Secretary was not a report within the meaning of the parent Act (House of Commons (Redistribution of Seats) Act, 1949) and that the Minister was, therefore, never in a position to exercise the authority given to him under the Act. The plaintiffs were, however, in Lord Evershed's opinion, on the horns of a dilemma in that if they sued the Minister in his capacity as a Minister of the Crown, an action for an injunction might not lie, whereas if they were to sue in his private capacity, as for an ordinary wrong, the individual who happened at the moment to hold the office of Home Secretary, it became unclear what breach of duty he had committed *vis à vis* the plaintiffs. Counsel had attempted to evade the horns of this dilemma by arguing that the proceedings were directed to the Minister in neither capacity, but in his capacity as a person designated in a statute to perform a certain act, and who was threatening to perform it in a way which the statute did not permit. Roxburgh J. had taken a similar view in the Chancery Division :

> ". . . The Secretary of State . . . when he submits a draft Order to Her Majesty in Council, is not doing it in his general capacity as Secretary of State, but is doing it as a person to whom the duty of so doing is expressly delegated by the provisions of this Act which contains the machinery which is to be used."

The view taken in *Merricks v. Heathcoat-Amory* stands in sharp contrast :

> " It was his [The Minister's] duty in his capacity as Minister of Agriculture, and not merely as a delegated person . . . if he were satisfied, with the satisfaction he felt in his capacity as Minister of

> Agriculture and an official of the Crown . . . to lay before the Houses of Parliament a draft scheme, and so ultimately in the same capacity to make an order bringing the scheme into effect. It seems to me that from start to finish he was acting in his capacity as an officer representing the Crown. That being so . . . no injunction can be obtained against him, and therefore the motion fails *in limine*" (per Upjohn J.).[6]

In this case the plaintiff Merricks contended that the potato marketing scheme submitted to the Minister was *ultra vires* the parent Act (Agricultural Marketing Act, 1931), in that it was not a scheme to control marketing at all, but one which regulated production. The statement of motion named as defendants the Minister of Agriculture, Fisheries and Food,[7] and the Right Honourable Derek Heathcote-Amory, and each of them; the Minister being sued as a corporation sole. The decision of the court that the Minister was throughout representing the Crown led to the conclusion that the correct defendant should, under the terms of the Crown Proceedings Act, have been the Ministry[8] itself which was not before the court. In any event the Crown's immunity from injunction precluded relief of the kind sought against either the Ministry or the Minister. The Attorney General raised the further point that the court had no jurisdiction to interfere with proceedings which were before Parliament. This, however, was left open by Upjohn J. as a "delicate and difficult" matter which it was not necessary to decide.[9]

The difficulty associated with the Minister's position as a Crown servant might be obviated by an action which sought only a declaratory order, since a declaration is in any event available against the Crown[10]; but the substantive question as to the circumstances in which the conformity to statute of material which is submitted for ministerial and parliamentary approval may be canvassed in the courts by these means remains unanswered. It may, however, be over-hasty to see the problem as settled by reference to such statements as that the courts will not intervene between Ministers and the Crown, or between Ministers and Parliament, or in Parliamentary proceedings. It is indeed surprising how few general conclusions can be drawn from the long series of cases in which the effect of statutory words conferring powers on Ministers has been considered.[11] An obvious complication is that the material under dispute has been of very different kinds. In some cases the Minister may be a prime mover. In others he may be something more like a cog in a machine. He may be legislating directly himself; confirming a plan drawn up by a local authority; considering the report of an inspector[12]; or approving decisions reached by an independent statutory body (which may itself take any of several forms, legislative or quasi-judicial[13]) and may thereby cast the Minister in a variety of roles. In some cases decision is committed to the Minister; in others his approval is a preliminary to confirmation by the Houses. Such parliamentary confirmations themselves may be many-valued. The function of a debate on ministerial town planning policy may differ from that of a debate on a parliamentary boundary proposal. So may the Minister's conception of his responsibility for the substance of the proposals in each case (as witness the difficulty of the Home Secretary when laying orders of the latter kind, and attempting both to restrict his responsibility for their substance[14] and to defend them before the House in detail). The fact of parliamentary consideration has often figured in

judicial reasoning about the effect of statutory provisions which provide for the exercise of authority for particular purposes. For the most part the allusion has been merely implicit in the statement that the Minister is answerable politically for his actions[15]; but the reference has in some instances been more direct. The existence of laying provisions in a statute, for example, has on occasion led the court to attribute an important difference in function to Ministerial action.[16] Where conclusions about legislative intention are to be founded on the fact that some provisions are required to be laid before the Houses and some are not, it is a matter of at least some significance to consider the differing contents of the term " consideration " which are represented by the different forms of affirmative and negative procedure. It is difficult to attribute an equivalent therapeutic value in practice to each of these. The disputed material in *Harper's* case was subject to affirmative resolution and was debated fully, if unsatisfactorily; and the view taken *obiter* by the Court of Appeal that the Act contemplated that any defect in the orders would be cured by parliamentary approval is to that extent the more firmly based. The " defect " cured was, however, one within the scheme of the parent Act and it would be unsafe to regard the dictum that if orders were adopted by the Houses it was unnecessary to say what view the court took, as a general statement extending beyond the particular circumstances.

Some related queries may be raised about the univalence of approval by the Minister. Where a rule is made directly under statutory authority, the making of that rule rather than any other betokens the Minister's satisfaction, which is frequently the only statutory requirement imposed (though additional conditions about consultation may occasionally be attached[17]). Does the situation differ where a Minister approves and adopts rules submitted by an independent body which is itself subject to a set of rules ? Here it is clear, in principle, that such a body might so misdirect itself as to vitiate the proposals which it presented; and there must plainly be limits to the ability of a Minister, as of the Houses, to cure a defective scheme.[18] The form in which the question was raised in the *Harper* and *Merricks* cases was whether the Minister in the circumstances was ever in the position envisaged by the statute for the exercising of his approval. In the latter instance the statement of motion sought to restrain the Minister from " purporting to act in his capacity as Minister of Agriculture." Counsel advanced the argument that the Minister, where he carried out statutory functions, acted as a " conduit pipe " for the putting into effect of the statute, and that in consequence his actions throughout were performed in a statutory capacity and could be disputed in terms of the authorising statute.

Here the issues as to the Minister's status and his involvement in the parliamentary process join together. It is established that in carrying out certain functions, a Minister may have different capacities, administrative and quasi-judicial, which appear, disappear, and reappear at different stages of a dispute, and which carry different obligations.[19] What now appears is an attempt to parcel out the Minister in order to differentiate a particular role which he may play in carrying out his duties as one part of the mechanism of delegated legislation. Objections to this course may lie in the terms of particular statutes which lay down the machinery to be followed, but this is a

different matter from the generalised objections of a constitutional nature which have been suggested.

*Statutory Exclusion of Review*

No view was expressed in the course of the *Merricks* decisions as to the effect of the formula included in the First Section of the Agricultural Marketing Act, 1931, providing that the making of an order by the Minister " shall be conclusive evidence that the requirements of this Act have been complied with, and that the order and the scheme approved thereby have been duly made and approved and are within the powers conferred by this Act."[20] It is possible to treat such a section as conclusive only after the " making of an order," and to contend that the jurisdiction of the courts to decide whether " an order " has been made remains.[21] A more extreme formula appears in the statute under dispute in the *Harper* case—namely that " the validity of any Order in Council *purporting to be made* under this Act and *reciting that a draft thereof has been approved* by resolution of each House of Parliament shall not be called in question in any legal proceedings whatsoever."[22]

Roxburgh J. took the view that it was clearly contemplated that the courts should be excluded after the confirmation of the Order by the Queen in Council but that until then the procedure laid down in the statute for the making of the Order should be subject to their jurisdiction. The view cannot be regarded as decisively overturned (since the case decided on appeal rested on the ground that no departure from the terms of the Act had, in fact, occurred). The contrary view would imply that at no stage either before or after the making of an order could any question of *vires* be raised—a situation which would go far towards making superfluous any requirement that the precise source of official powers should be readily identifiable—an end towards which some of the most useful labours of the Statutory Instruments Committee have been directed. A comment of Scrutton L. J. is apt :

> " It may be convenient for Ministers not to have to consider carefully whether the powers they are purporting to exercise are within their statutory authority and the powers delegated to them by statute . . . Members of Parliament may not trouble to consider what the sections to which they are giving legislative authority really mean. . . . But I cannot think it desirable that when Parliament delegates authority . . . only if certain statutory conditions are observed, it should then pass clauses which, it may be contended, allow their delegates to contravene these conditions and make *ultra vires* orders. . . ."[23]

*Royal Assent*

Where delegated legislation takes the form of statutory Orders in Council, it has been argued that judicial intervention to restrain their submission for the signification of the Royal Assent amounts to " a right to deny to a Minister of the Crown, access to the Crown."[24] It has also been suggested that such a course brings the veto of the Crown into question,[25] and that any injunction would be in effect addressed to Her Majesty and aimed at preventing her from considering whether to make the Order.[26] The artificiality of considering the promulgation of a departmental order as if

it were a personal act of the Monarch seems patent. The same is true of " access to the Crown." It might be thought at least unplausible to describe a formal requirement of the legislative process in terms of personal audience with the Sovereign. (A similar point might be made about the presentation for the Royal signature of a Bill. The question whether the courts could restrain the submission of a Bill subject to some prior irregularity in its passage has never been the subject of judicial decision in the United Kingdom,[27] and it is not altogether clear from Commonwealth decisions to what extent the granting of injunctions or declarations[28] in relation to statutes may be regarded as cutting across the rights of Ministers. The Australian High Court recently refused to allow the remedy of injunction to be used to restrain submission of a Bill[29] and the point is one upon which the Court of Appeal in deciding *Harper's* case declined to express any view. Some members of the Commons appeared, however, to be agitated by it,[30] and to regard Assent in Council in the same light as Assent to a Bill which had passed three readings in each House.)

### *Parliamentary Responsibility*

The authority of Parliament is certainly, in both a formal and a practical sense, fundamental to the process of government; and one corollary is that the courts have shown great reluctance to make any order which would hamper the freedom of action of the Houses in procedural matters[31] or of the officials such as the Speaker and Clerks who have duties to the House in relation to its procedure.[32] The same is true of interventions which can be described as trenching on the privileges of either House, or as interfering with a discretion exercised under parliamentary control (though judicial comment on the artificiality of the term " control " in certain cases has not been lacking[33]). Perhaps for these reasons, the novel spectacle of a Minister of the Crown restrained in his parliamentary duties by an injunction is one calculated to provoke the astonishment which moved Mr. Leslie Hale to announce in the Commons in December, 1954, " the most serious constitutional crisis since the reign of Queen Anne,"[34] and political commentators to descry a threat of judicial encroachment. " To give the judiciary power to interfere," said the *New Statesman* on 1st January, was " to assume a fundamental law—such as the American constitution." The concept was " alien to a sovereign Parliament " and " the last doctrine that the Labour Party should champion." The Government certainly took the view that the Home Secretary's action was not justiciable in the courts,[35] and Lord Evershed dubbed the issue a " striking one, coming near to touching on the privileges and powers of Parliament." Yet it is difficult to see " a threat to the omnicompetence of Parliament and . . . the American principle of judicial review of the actions of the legislature " (to quote Dr. Butler)[36] in what is after all an attempt to dispute the validity of delegated legislation. This is a purpose for which the courts have never been regarded as precluded—in the absence of an explicit statutory ousting of jurisdiction—from intervening. It was remarked by Roxburgh J., in making the interim order against the Home Secretary in *Harper's* case, that nobody doubted that Parliament was supreme, but it could only exercise its supremacy in the shape of a formal Act of Parliament.

Confirmations of orders laid before either House, or both Houses, are clearly not constitutionally the actions of " Parliament " in this sense at all, and it would seem that even resolutions of both Houses plus the Royal Assent (where an instrument takes the form of an Order in Council made under statutory powers) cannot in themselves give any additional validity to a provision which is *ultra vires* the parent statute. It has never been suggested that the privileges of either House extend to prevent the canvassing of the validity of delegated legislation, nor that the courts are not the appropriate body to consider questions of *vires* as distinct from policy. Invalidation of orders approved by resolution is not regarded as a trespass into the legislative sphere, and it does not seem clear that in all cases intervention at an earlier stage by way of injunction or declaration (where a case of *ultra vires* can be made out) must necessarily draw upon itself such a charge. A similar argument, based upon the contention that the proceedings by which the Houses approved a scheme formulated by a statutory body were merely part of the process by which Parliament expressed its will, was decisively rejected in *R. v. Electricity Commissioners* (1924), 1 K.B. 171. Given its full effect, said Atkinson L. J., the argument would imply that " new and onerous and inconsistent obligations [could be] imposed without an Act of Parliament and by simple resolution of both Houses of Parliament." Younger L. J. added that:

> " The interference of the court . . . so far from being even in the most diluted sense of the words a challenge to its supremacy, will be an assistance to Parliament. It will relieve each House to some extent at least from the risk of having presented to it for approval by resolution, schemes which go beyond the powers committed by the statute. . . ."[37]

It was suggested in the *Electricity Commissioners* case that the power to modify the scheme presented was limited to such modifications as might have been made by the Commissioners themselves.[38] " Modification " must at least be limited by the scheme of the parent Act and some restriction must be placed upon the statement made by the Speaker in the debate of December, 1954, on the Boundary Commission orders that " if the House agrees . . . any defect . . . is cured, because nothing is *ultra vires* this House."[39] The Houses may, it is true, pass resolutions on any matter, but the power to cure defects in schemes or orders by resolution is plainly not unlimited. There is, as Dicey noted,[40] a difficulty in reconciling the principle that each House of Parliament has complete control over its own procedure with the principle that the resolution of neither House is a law. The difficulty in no way lessens, however, the necessity to distinguish between the proceedings of the Houses and the authority of Parliament. This is one of the elementary propositions of constitutional theory but it ought not for this reason to be lost sight of in any discussion of the relations in this country between the courts and the administrative and legislative processes.

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[1]A recent criticism of a difference between the two types of action as laid down by the Committee on Ministers' Powers (1932, Cmd. 4060, pp. 73-75) is made by the authors of *Rule of Law* (Study by the Inns of Court Conservative and Unionist Society), 1955, p. 34.

[2]Vol. XXXIII, pp. 125-47.

[3]*Harper v. Secretary of State for the Home Department* (Times L.R., 17th December 1954).

[4]*Harper v. Secretary of State for the Home Department* (1955), 1 All E.R. 331, 339.

[5]Section 21 (1) (*a*) enacts that no relief by way of injunction or specific performance shall be granted against the Crown; and Section 21 (2) extends the protection to "an officer of the Crown" if the effect of making an order or granting an injunction would be to give relief against the Crown which could not have been obtained in proceedings against the Crown.

[6](1955), 2 All E.R. 453 at 456.

[7]The Minister's title since the Transfer of Functions (Ministry of Food) Order, 1955.

[8]Civil proceedings against the Crown are instituted (S. 17, Crown Proceedings Act) against the appropriate Government Department, of which a list is published by the Treasury. The list names as the appropriate defendant the Ministry of Agriculture, Fisheries and Food rather than the Minister. The Ministry, however, has no corporate capacity apart from the Minister, who was established as a corporation sole by the Ministry of Agriculture and Fisheries Act, 1919.

[9](1955) 2 All E.R. 453 at 457.

[10]Crown Proceedings Act, S.21. Cf. G. Borrie, "The Advantages of the Declaratory Judgment," 18 *Modern Law Review* (1955).

[11]In *Nakkuda Ali v. Jayaratne* (1951), A.C. 66 at 76, 77, the Privy Council warned, for example, that the "subjective" construction placed on the empowering clause in *Liversidge v. Anderson* (1942), A.C. 206, should not be taken as applying generally to all such expressions when used in statutes conferring powers.

[12]Such consideration may follow inquiries possessing different characteristics and purposes. Cf. the description of the public inquiry procedure in *Robinson v. Minister of Town and Country Planning* as "to elucidate matters upon which [the Minister] desires to be better informed" (1947), K.B. 702, 713, with that in *Magistrates of Ayr v. Lord Advocate* (1950), S.C. 102, 110, 111, as "an independent public investigation of facts for the information and guidance of the Houses of Parliament."

[13]The Electricity Commissioners, it was held in 1924, were a "judicial" body to whom prohibition would lie, and every scheme submitted by them under the Act remained the scheme of the Commissioners even after its confirmation (1924), 1 K.B. 171 at 212 (per Younger L.J.). In *R. v. Legislative Committee of the Church Assembly* (1928), 1 K.B. 411, the function of the body was said to be that of setting in motion "in a preliminary way proposals for legislation, which may or may not mature into legislation." In *Yaffé's Case* the Minister was stated to be "not the author of the scheme," but the "critic and finisher of it."

The Ministerial function may, it seems, according to circumstances take on some of the characteristics of guardian, parent or critic.

[14]On the grounds: (*a*) that the Commission was an independent body whose recommendations should be accepted without modification; and (*b*) that the decision was for the House, which should have a free hand to modify as it saw fit (535 H.C. Deb., col. 1785).

[15]References to political and parliamentary responsibility occur notably in constructions of statutes empowering Ministers to make regulations, e.g., *Liversidge v. Anderson* (1942), A.C. 206; *Point of Ayr Collieries v. Lloyd George* (1943), 2 All E.R. 546; and also in decisions that Ministers are acting "administratively" rather than in any kind of "judicial" capacity in reviewing proposals and objections. E.g., "Every Minister of the Crown is under a duty constitutionally to the King to perform his functions honestly and fairly. If he acts unfairly his action may be challenged and criticised in Parliament. It cannot be challenged and criticised in the courts unless he has acted unfairly in another sense . . ." *B. Johnson and Co. (Builders) Ltd. v. Minister of Health* (1947), 2 All E.R. 399 at 400.

[16]*Magistrates of Ayr v. Lord Advocate* (1950), S.C. 102, 107, where the laying provisions were instanced as evidence that Parliament had not "delegated to the Secretary of State, but reserved to itself, the final decision."

[17]As, for example, by the National Insurance Act, 1946, S. 77.

[18]This was conceded in *Harper's Case*. The concession implies that the court must have jurisdiction to determine when a defect threatens the existence of a scheme or report as one made under the terms of the statute. Cf. Viscount Dunedin in *Yaffé's Case*: "I do not suggest that if there was something sent up which was really not a scheme at all, the Minister could confirm it" (1931), A.C. 494 at 504.

[19]*B. Johnson and Co. (Builders) Ltd. v. Minister of Health* (1947), 2 All E.R. 395 at 399. "His" [the Minister's] "functions are administrative" [but] "at a particular stage and for a particular purpose there is superimposed on his administrative character, a character which is loosely described as quasi-judicial. The administrative character in which he acts, reappears at a later stage." Cf. *Darlassis v. Minister of Education* (1954), 52 L.G.R. 304. The possession of a separate statutory character by a public servant was suggested in *McPhail v. Lanarkshire County Council* (1951), S.C. 301 at 313. "In carrying out these express statutory functions, some of which involve the exercise of a quasi-judicial discretion . . . it is clear that [he] is named *ex officio* as a public functionary."

[20]Section 1 (8).

[21]Cf. the method of construction adopted in *R. v. Minister of Health, ex parte Yaffé* (1930), 2 K.B. 98; and (1931), A.C. 494.

[22]House of Commons (Redistribution of Seats) Act, 1949, Section 3 (7).

[23]*Yaffé's Case* (1930), 2 K.B. 98 at 148.

[24]535 H.C. Deb., col. 2607.

[25]535 H.C. Deb., col. 2453.

[26]The Attorney-General in the Court of Appeal (Times L.R., 20th December, 1954).

[27]Cf. Erskine May (15th ed.), p. 576; Maitland, *Constitutional History of England* (1908), p. 381; Craies, *Statute Law* (5th ed.), p. 347.

[28]Cf. the reference to the use of declaratory orders in the United Kingdom in *Attorney General for Victoria v. The Commonwealth* (1945), 71 C.L.R. 237 at 278, where the granting of a declaration to restrain the promulgation of an Act of the Commonwealth Parliament was said to rest not upon the special requirements of the Federal constitution, but on the "right of the individual . . . of the public, or a section of the public to restrain a public body with statutory powers exceeding those powers" (per Williams J.).

[29]*Hughes and Gale Pty. Ltd. v. Gair* (1954), 90 C.L.R. 203. Cf. *Trethowan v. Peden* (1930), 31 S.R. N.S.W. 183, and *A.G. for New South Wales v. Trethowan* (1931), 44 C.L.R. 394 at 427.

[30]535 H.C. Deb., col. 2606.

[31]*Bradlaugh v. Gossett* (1884), 12 Q.B.D. 271; *Bilston Corporation v. Wolverhampton Corporation* (1942), 1 Ch. 391.

[32]Cf. the Australian case of *Hughes & Vale Pty. Ltd. v. Gair* (1954), 90 C.L.R. 203; the South African case of *Masai v. Jansen*, N.O. 1936, C.P.D. 361; and Art. 122 of the Indian Constitution.

[33]E.g., *Healey v. Minister of Health* (1954), 2 All E.R. 580 at 590. "I hope that he" [the plaintiff] "derives adequate satisfaction in the knowledge that for that departmental decision against him the Minister is answerable to Parliament" (per Cassels J.).

[34]535 H.C. Deb., col. 2453.

[35]Mr. Crookshank. 535 H.C. Deb., col. 2603.

[36]D. E. Butler *loc. cit.*, p. 140.

[37](1924), 1 K.B. 171 at 213.

[38](1924), 1 K.B. 171 at 212.

[39]535 H.C. Deb., col. 1919.

[40]*Introduction to the Study of the Law of the Constitution* (9th ed.), p. 55.

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# *Arbitration in the Federal Public Service of Australia*

By Leo Blair

*Mr. Blair, Lecturer in Comparative Government and Public Administration in the University of Adelaide, was until recently Tutor in the Department of Public Law, University of Edinburgh.* *He wishes to acknowledge the assistance received from the Arbitration Section of the Commonwealth Public Service Board, from whom permission was received to use numerous documents prepared by them.*

The Commonwealth Public Service Arbitration Act, 1920-55, establishes the machinery employed in resolving disputes between Commonwealth public servants and either the Minister of a Department or the Public Service Board.[1] The Act governs in detail the procedures to be followed in arriving at a settlement and is an interesting example of the way in which the Australian Federal Public Service—unlike the Civil Service in Britain—is closely regulated by statute.

The Act visualises that conciliation will come first and foremost, resort being had to arbitration only when all attempts at negotiation have failed; and although the absence, in Australia, of the British system of Whitleyism[2] might suggest that settlement by conciliation would be rather difficult to achieve, this is not, in fact, the case.[3]

### *Historical Development*

The closing years of the last century were, for Australia, a period of acute economic distress with consequent industrial unrest. It is not surprising, therefore, that when the Commonwealth was established in 1901, the Constitution Act of that year provided that the Federal Government should have powers to make laws with respect to " conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State."[4]

Further trade troubles and frequent strikes in the next few years resulted in the passing of the Commonwealth Conciliation and Arbitration Act in 1904. Under this statute was established, in 1905, the Conciliation and Arbitration Court, which was empowered to determine industrial disputes and to make awards governing wages, terms and conditions of employees in industries as defined in the Act. But, as defined, the word " industry " did not apply to the Federal Public Service; public servants not being " industrial employees " were thus denied access to the Court. The effect of this was to make the Public Service Commissioner[5] the sole authority for determining salaries, hours, and conditions generally, in the Public Service.

Naturally, the 1904 Act, with its ideas of conciliation and arbitration had a profound influence on public servants, who now desired to benefit from this new approach to industrial relations. Public Service staff associations were formed and in the Report of the Public Service Commissioner for 1904 the question of the recognition of these associations is raised. As

the following extract might suggest, there was a certain disinclination on the part of the " official " side to allow much scope to the new bodies :

> " Since taking office I have gladly granted recognition to three Associations whose avowed objects, if strictly adhered to, will, I feel, greatly contribute to the social, intellectual and ethical advancement of their members ; but the caution cannot be too early given that as soon as any attempt is manifested by an Association of stepping beyond the limits of its legitimate and acknowledged functions, so soon will difficulties arise. Subject to the due observance of this premonition, I shall always be prepared to receive suggestions, through the proper channel, in regard to matters affecting the Service upon which an Association may be competent to express itself, it being recognised that in the administration of an extensive Service there are necessarily matters respecting which suggestions are often invaluable. In this connection I cannot do better than quote an excerpt from a communication conceding recognition to one of the Societies referred to : ' The Commissioner will be pleased to receive suggestions from the Association in regard to matters they are competent to express themselves upon, and he is glad to learn that there is no desire to countenance any movement or agitation calculated to harass those in administrative authority. All communications intended for the Commissioner should be addressed to me, and they should deal only with matters concerning the Public Service as a whole or classes of officers. Strong objection would be taken to the Association interfering in individual cases, as there is ample provision in the Public Service Act and Regulations in that respect.' "[6]

By means of the newly formed staff associations, therefore, there was a certain amount of agitation to obtain for the public servant the right to have his claims heard and determined by the Arbitration Court. It is not easy to estimate how widespread this attitude was in the Public Service ; certainly some public servants were against being brought under the Conciliation and Arbitration Act.[7]

Nevertheless, discontent was strong in the service, particularly in the Postmaster General's Department, which employed some 75 per cent. of the total number of public servants. In 1910 a Royal Commission had reported adversely on the administration of, and the general conditions within, that Department and it would seem that this report, together with the protestations of the staff associations, gave the final impetus to some form of Public Service arbitration, and in 1911 the Arbitration (Public Service) Act was passed.[8]

This Act, which was to take effect from 1st January, 1913, provided, *inter alia*, that employees of the Public Service of the Commonwealth, or any division, class, grade or branch thereof, were deemed to be employees in an industry within the meaning of the Commonwealth Conciliation and Arbitration Act, 1904. The new legislation vested authority in the Arbitration Court to make awards whose contents need not be restricted to the specific claims made or to the subject matter of the claim, but which might include anything which the Court thought necessary in the interests of the public

or the Public Service. Such awards could not be challenged or appealed against in any other Court.

All awards had to be laid before both the House of Representatives and the Senate, and could not come into operation until 30 days had expired from the date of " tabling."

A further provision was that the Court was empowered to make an award which was not in accord with a law or regulation of the Commonwealth relating to salaries, rates of pay or conditions of service. When laid before Parliament, an award of this nature was to be accompanied by a statement as to the laws or regulations with which it was not in accord. If either House of Parliament within 30 days passed a resolution of disapproval the award was not to take effect.

With the passing of the 1911 Act, therefore, public service associations operated under substantially the same conditions as other industrial trade unions, and the first award pursuant to the new Act was made in 1913 in favour of the Australian Postal Electricians' Union.

This innovation in Public Service practice had wide repercussions and in 1916 the Public Service Commissioner expressed doubts as to its effects on employees, particularly with regard to mobility: " Since my appointment as Public Service Commissioner one of the objects which I have constantly kept in view as desirable of attainment, was the establishment as far as possible of uniform conditions for the Service as regards privileges, practices and principles of administration. The establishment of uniform conditions has simplified the work of administration and has also made for the mobility of the Service, a very important factor in the organisation of large Departments such as the Postmaster General's. The measure of uniformity and mobility, which has been secured as the result of past efforts, is in danger to some extent of disintegration as the result of the Court's awards, and it is in connection with these matters that my chief concern lies."[9]

And after outlining four awards made by the Court, the Report goes on: " In these four awards three different methods of dealing with the one matter have been laid down and in other matters which are apparently identical as affecting different classes of officers, dissimilar conditions are prescribed. In regard to . . . mobility . . . it may be stated that in the positions which are considered to be closely related to one another . . . uniform limits of salary had been adopted, and consequently officers could be transferred from one of the positions . . . to another without alteration of status or interference with their existing seniority. This arrangement was convenient . . . and facilitated the filling of vacancies and the movements of staff generally. Under the awards, barriers are to some extent imposed which tend to restrict the free interchange of officers. Cases have already occurred which illustrate the difficulties . . . which arise when officers desire transfer from ' award ' positions to ' non-award ' positions."[9]

Apart from these objections by the Commissioner, there were also complaints from the staff associations. It was alleged that, because of the very large demands made upon the Court by industrial employees, there were inordinate delays in the settling of Public Service claims. Certainly so much of the Court's time was taken up with the determination of actual or threatened disputes in industry at this time that the public servant was

forced into the background by the pressure of the more urgent industrial questions. The objection was put forward by certain staff organisations that the conditions and nature of work in public service were radically different from those of private employment, and it was suggested therefore that a separate tribunal for Public Service matters only should be set up, which by specialising in this way would become expert in determining conditions appropriate to the Public Service.

During the period 1913 to 1920, therefore, many public servants sought through their associations a system of arbitration which would be solely for the use of the Public Service.[10]

In 1918 the Federal Government commissioned Mr. D. C. McLachlan (a former Public Service Commissioner) to inquire into, and report upon, the various Acts relating to the administration of the Public Service, particularly as to their effects upon management and working. The reason for this Royal Commission was that the Public Service had by 1918 grown to twice its original size (from about 11,000 to about 20,000). Increased population, the transfer of many services from State governments to the Federal authority and the establishing of numerous new branches in existing departments to cope with new services, all made the overhaul of existing Public Service legislation and administration imperative.

The Report was published in 1919 and was trenchant in its criticism of the general state of the Public Service. But what is of importance here is that nowhere was the criticism more trenchant than with regard to the Arbitration (Public Service) Act of 1911 :

> " I have carefully watched the effect of this modern feature of Public Service employment since the first Award was made in 1913 and have no hesitation in saying that while it may have worked to the personal advantage of some officers, it has not tended to foster that zeal, sense of discipline and proper recognition of responsibility to constituted authority which is necessary for the maintenance of a well-ordered and efficient service. I am also satisfied that true work values can only be determined by an intimate knowledge of . . . the class of work under consideration. . . . Further, while the object of arbitration is to secure a contented service I am doubtful, to say the least, whether it achieves that end. An organisation goes to arbitration in the knowledge that they have everything to gain and nothing to lose, and if the judgment does not give them all that they seek . . . the feeling of disappointment engendered must have a disturbing effect upon them as a body of officers. . . .
>
> " Public Service arbitration has proved a most costly matter . . . representation of the Commissioner and the Departments has involved heavy expenditure because of the necessity for bringing witnesses from other States to give evidence and in paying salaries of those witnesses and other officers in attendance at the Court. . . . The salaries and expenses of executive members of associations appearing in the Court also form a serious item of expenditure."[11]

In the light of this apparent extravagance and disloyalty, McLachlan

recommended that the Act be repealed and that final power for the determination of salaries and other general conditions of employment should reside in the Public Service Commissioner.

But the Government of the day, having accepted in 1911 the principle of Public Service arbitration, was not going to return to the idea of absolute control of the Public Service by the Public Service Commissioner,[12] and the result of the Government's consideration of the McLachlan Report was the passing of the Arbitration (Public Service) Act of 1920 which, with amendments, is still the basis of arbitration in the Public Service.

It came into force on 31st March, 1921, and provided for the appointment of a Public Service Arbitrator with power to determine wages and conditions of employment for public servants who were now removed from the jurisdiction of the Commonwealth Court of Conciliation and Arbitration. No appeal was permitted from the decision of the Arbitrator.[13]

Thus from 1904 to 1913 Commonwealth public servants had no right to go to arbitration, although this right was given to private industrial employees. There was, of course, nothing to prevent an organisation registered under the Conciliation and Arbitration Act which had in its membership employees of the Public Service, from prosecuting claims on their behalf under the Conciliation and Arbitration Act. But the Conciliation and Arbitration Court found itself limited in two ways in respect of claims so made. First, its definition of " industry " excluded public servants, and second, the Court held the view that it could not make an award which was not in accord with any existing law or regulation of the Commonwealth Government and clearly any attempt to interfere with Public Service conditions would clash with the Public Service Act. From 1913 to 1920 public servants had the right to be heard by the Conciliation and Arbitration Court, taking their place with the industrial organisations and subject to the same treatment. From 1920 the Public Service has had its own Arbitrator with, since 1952, a means of appeal from his determination to the Conciliation and Arbitration Court.

### *The Arbitrator*

The Public Service Arbitrator is appointed by the Governor-General, only by an address of both Houses of Parliament. He is required, by Section 13 of the Commonwealth Public Service Arbitration Act, 1920-55, to act upon " equity, good conscience and the substantial merits of the case, without regard to technicalities or legal forms, and shall not be bound by any rules of evidence, but may inform his mind in such manner as he thinks fit."[14]

As in the 1911 Act, any determination made by the Arbitrator must be laid before Parliament and does not take effect until 30 days have elapsed from the date of " tabling " ; where his determination is not in accord with " the laws of the Commonwealth and the regulations made thereunder," he is required to submit a statement showing the inconsistency and such a determination may be disallowed by resolution of either House within 30 days.[15]

The Arbitrator is not restricted to matters which are the subject of the claim before him and if he considers it to be in the interest of either the Public Service or the public generally, he may include in his determination

any matters which are in his opinion necessary. His decision, when given, is binding on all parties thereto, provided, of course, it is not disallowed by Parliament. Legally it is possible for the Arbitrator to make awards with regard to public service employment which conflict with those made by the Arbitration Court in similar cases in industry (Commonwealth Public Service Arbitration Act, 1920-55, S22 (1)). Since, however, an appeal lies to the Court from the Arbitrator, it is not likely that any major differences would go unchallenged by the Court. Nevertheless it is common for the Arbitrator in individual cases to prescribe minor conditions which do differ from those made by the Court. It should be observed that in any salary or wage award made by the Arbitrator there are two elements: (i) the basic wage,[16] with any cost-of living adjustments—this is determined by the Arbitration Court and as a general rule is accepted by the Arbitrator; (ii) the " margin " for skill or work value, additional to the basic wage, which is determined solely by the Arbitrator.

*Procedure*

In examining the procedure by means of which the Public Service Arbitration Act functions it is convenient to divide our analysis into two sections: (i) the lodging, hearing and determination of claims; and (ii) the promulgation, implementation and interpretation of the decisions of the Arbitrator.

The basic power of the Arbitrator is provided for as follows: " The Arbitrator shall, subject to the provisions of this section, determine all matters submitted to him relating to salaries, wages, rates of pay, terms or conditions of service or employment of officers and employees of the Public Service " (Section 12 (1)).

Then it is provided that: " Any organisation shall be entitled to submit to the Arbitrator by memorial any claim relating to the salaries, wages, rates of pay, or terms or conditions of service or employment of members of the organisation " (Section 12 (2)).

It is worth while observing that the word " organisation " is defined by Section 3 of the Commonwealth Public Service Arbitration Act, 1920-55, as " an organisation within the meaning of the Conciliation and Arbitration Act, 1904-1950." This means, therefore, that any organisation which has been registered under the Conciliation and Arbitration Act may submit claims to the Public Service Arbitrator in respect of its members who are officers or employees of the Public Service. Thus, a claim may be submitted, on the one hand, by a body like the Commonwealth Public Service Clerical Association, the members of which are all public servants; on the other hand, the organisation concerned may have in its membership employees of outside industry as well as public service employees, for example, the Transport Workers' Union of Australia. Any determination made in the latter type of case, of course, is restricted in its application to those members of the organisation who are public servants.

The memorial is the type of claim which seeks a completely new determination covering, say, salaries or conditions of service. It can be lodged only by an organisation and not by the Public Service Board or a departmental

employing authority. The reason for this is simply that the Public Service Board has the power to prescribe by regulation matters affecting salaries and other conditions of service and thus there is no need for it to approach the Arbitrator in the first instance.

With the memorial it is usual to submit an explanatory memorandum setting out briefly the main reasons why the claim is being lodged.

On receiving the memorial the Arbitrator is required to forward copies to the parties concerned: " The Arbitrator shall forward a copy of the claim to the Board and to the Minister of any Department of State affected by the claim " (Section 12 (3)).

This is to allow either the Board or the Minister concerned an opportunity of replying to the claim, and their " answers " must be lodged within 14 days of the date when the memorial was filed with the Arbitrator. In the event of there being no objections to the claim, the Arbitrator may proceed at once to issue a determination in favour of the claimant organisation.

Where, however, an answer is lodged within the prescribed period objecting to the claim made by the organisation, copies of these answers are forwarded to the organisation concerned. Again, it is the practice to accompany the answer with a statement setting out concisely the grounds on which objection is based. With this and the explanatory memorandum from the organisation which accompanied the memorial, the Arbitrator is in a position to appreciate the main points at issue in the dispute.

It has already been stated that the entire scheme of the Act places great emphasis on the settlement of disputes by negotiation between the parties, and during the second reading debates the Attorney-General said: " Every endeavour should be made to arrive at the settlement of any dispute by conciliatory methods before entering the tribunal which is to be created under the Bill."[17] And even after negotiations have broken down and a claim has been lodged, the attempt to secure a settlement by conciliation is not given up.

When the memorial and answers have been lodged, the Arbitrator " shall call a conference, to be presided over by himself, of representatives of the organisation and of the Board and of any Minister who has lodged objections to the granting of the claim. . . ." (Section 12 (5)).

This conference is intended to play a very important part in the negotiations; as was said by the Minister who piloted the Bill through the House of Representatives: " Under this measure, when the issues have been arrived at, the first step taken is the calling of a conference. . . . The desire is to settle disputes so far as possible by these conferences. . . ."[18] At the conference, therefore, agreement on some, or even all, of the points in dispute may be reached. For example, the subject of the particular claim may have been fully considered by the Arbitrator in a recent case. On this being pointed out to the parties, they might agree to accept the Arbitrator's previous decision on the specific matter covered.

If all the issues are settled by agreement at the conference, the Arbitrator may then make a determination, but if there are still some points in dispute, then the next step is the " hearing of evidence." This takes place in public, and where the facts of the claim are not in dispute the hearing may be limited to the presentation of arguments by representatives of the organisation and

of the Public Service Board or a Minister. As a rule, however, sworn evidence of the facts is given at the public hearing and normal court procedure with regard to evidence is followed. The respective cases are outlined and cross-examination may take place, this stage being closed by a summing-up by each side.

With regard to the representatives engaged in the public hearing, the Public Service Arbitration Act, 1920-52, provided: "No person or organisation shall in any proceeding under this Act be represented by counsel or solicitor."

One of the consequences of this clause arose this year when a representative of a staff association (one of its executive officers) was found to be a qualified lawyer. This raised a rather difficult point. Was he arguing the case *qua* union representative or *qua* lawyer? The issue has been settled by an amendment to the Act and it is now provided that:

> "Subject to this section, a person or organisation shall not be represented in proceedings under this Act by counsel or solicitor.
>
> "The last preceding sub-section does not prevent the representation in proceedings under this Act:
>
> "(*a*) Of an organisation by (i) a member or officer of that organisation, or (ii) a member or officer of another organisation who is representing that other organisation in proceedings being heard at the same time as the first-mentioned proceedings;
>
> "(*b*) Of a Minister by (i) an officer of the Public Service Board, or (ii) an officer of the Public Service of the Commonwealth who is employed in the Department administered by the Minister;
>
> "(*c*) Of the Public Service Board by an officer of the Public Service Board; or
>
> "(*d*) Of a public institution or authority of the Commonwealth by (i) a person employed by that institution or authority, or (ii) an officer of the Public Service Board" (Section 19 (1)).

And the same section further provides that, with the consent of the Conciliation and Arbitration Court or the Chief Judge of that Court, "a person or organisation may be represented by counsel or solicitor." This now means, in effect, that in all proceedings before the Arbitrator either party may be represented by someone who is legally qualified, so long as he is either a member or officer of the organisation whom he represents or an officer of the Public Service Board or of the Department involved in the proceedings.

At the close of the public hearing the Arbitrator will invariably reserve his decision and before discussing the actual judgement it might be worth while to sum up, briefly, the information available to the Arbitrator to assist him in giving consideration to the conflicting claims. He will possess:

(*a*) Oral evidence of the witnesses called at the public hearing.

(*b*) Information contained in documents and other exhibits produced in the case.

(*c*) Details of any agreements arrived at by the parties, e.g., at conference stage.

(*d*) Information obtained by personal inspection of the work performed by the individuals on whose behalf the claim is being made.

(*e*) Any other information which he may obtain in accordance with Section 13 of the Act.

With regard to this last source of information it need not be emphasised that the Arbitrator will be wise to ensure that all interested parties know how he has informed himself.

When the Arbitrator issues his decision, it may be, and in other than "consent" determinations invariably is, accompanied by a statement of the reasons upon which the decision is based; the provision also appears that "subject to this Act, a determination of the Arbitrator shall come into operation upon the expiration of a period of thirty days, or of such longer period as the Arbitrator specifies in the determination, *after the determination has been laid before Parliament*" (Section 21(1)) [the italics are mine].

Thus, in theory at least, the principle of parliamentary control over public expenditure is safeguarded. During the thirty-day period any member may move that the determination be disallowed and on a resolution of either House being passed to that effect the determination will not come into operation. There have been very few cases where such disallowance has been resorted to—it is not intended that Parliament should set itself up as a court of review as to the merits of the determinations of the Arbitrator as to the facts of any particular case; rather, the idea is that if it is not in agreement with the principles on which the decision has been arrived at, Parliament may exercise its right to disallow the determination. The criterion appears to be that if it is difficult to raise the money to pay any large increases in salary which have been awarded by the Arbitrator on the merits of the case, then Parliament can by its veto prevent the additional demand on the Treasury.

This point was put very clearly by the then Attorney-General when he introduced the 1911 Arbitration (Public Service) Act: "It would be most undesirable that any Court, Tribunal or person outside the Parliament should be permitted to fix, without supervision or regulation of any sort whatever, any rates or conditions of employment that it thought fit for public servants of the Commonwealth irrespective of the ability of the Treasurer to pay them or the country to find the money."[19]

So much for the way in which the decision of the Arbitrator is arrived at. Before going on to examine subsequent events mention might be made of what is known as an "application to vary." This occurs where an existing determination is in force and the staff organisation concerned or a Departmental Minister whose staff is affected or the Public Service Board desire to have the determination varied in some way. The procedure followed is much the same as that outlined above, except, of course, that the application to vary is not confined to staff organisations, unlike the memorial claiming a new determination.

When the Arbitrator has made his decision he will then forward a copy to all the interested parties. Under Sections 21-22 of the Act he must also forward a copy to the Prime Minister and to the Attorney-General together with a statement of any laws or regulations with which his determination may be in conflict.

On promulgation of the determination the Public Service Board normally

forwards copies to all Departments whose staffs will be affected by the award, indicating where necessary any salary adjustments which may be required or changes in general conditions of service which may have to be made as soon as the determination takes effect. These instructions are meant to enable the Departments to implement correctly the provisions of the determination and, since the Board's representatives will have been present at all stages of the negotiations, conference and public hearing, the Board is in a good position to advise on the contentious points.

At the same time as it forwards the determination, with explanatory instructions, to the Departments, the Board dispatches copies of the instructions to the interested staff organisations. This enables these organisations to raise immediately any points concerning the Board's instructions with which they may not agree. Negotiations follow, and if these are unsuccessful and no agreement can be reached on how the determination of the Arbitrator is to be implemented, application may be made to the Arbitrator who " may give an interpretation of any determination made under this Act " (Section 15F(1)).

The party submitting the application for interpretation will set out the clauses in respect of which the interpretation is desired, the interpretation which the employing authority has placed on these clauses and the interpretation placed on them by the organisation. A copy of these submissions will, of course, be sent to the other party to the dispute. No answers need be lodged, and the matter proceeds direct to a public hearing where the points in dispute are argued before the Arbitrator. Generally the facts of the case are admitted and all that is necessary is for the differing viewpoints to be presented by the representatives of the disputants. After hearing the parties, the Arbitrator gives his interpretation. As an interpretation is merely explanatory of a determination already in existence there is no need for it to be tabled in Parliament.

It is sometimes the case that the Arbitrator is asked to interpret a provision which has been in operation for many years ; if his interpretation is different from that of the employing authority, then considerable difficulty can be experienced in giving effect to the new interpretation, especially where departmental records necessary for implementing the Arbitrator's decision have been destroyed.[20]

*Appeals and References*

In 1952 the Federal Government examined the various statutes relating to arbitration, both industrial and public service. The main result for the public servant was that certain rights of appeal from decisions of the Arbitrator were now allowed. " The Chief Judge may, upon application, grant leave to appeal against a determination made by the Arbitrator and may, on such terms and conditions as he thinks fit, make an order that the operation of the whole or a part of the determination be stayed pending the determination of the appeal or until further order of the Chief Judge " (Section 15 C(1)).

Application for leave to appeal may, of course, be made by the Public Service Board, a Minister affected by the decision, or a staff organisation so affected. Leave to appeal will not be granted unless the Chief Judge of the

Conciliation and Arbitration Court is of the opinion that the matter of the appeal is of such importance that it is in the public interest that leave should be given. The appeal is heard by the Full Court (i.e., not less than three judges) and " upon the hearing of an appeal under this section the Full Court may—(*a*) admit further evidence and (*b*) direct the Arbitrator to furnish a report to the Full Court with respect to such matter as the Full Court specifies, and shall (*c*) make a determination confirming, quashing or varying the determination under appeal, or (*d*) make a determination dealing with the subject-matter of the determination under appeal " (Section 15 C(5)).[21]

In addition to this provision for appeal, the 1952 amending legislation provided for reference direct to the Full Court without any prior adjudication on the part of the Arbitrator: " Upon application by (*a*) the Board, (*b*) a Minister affected by the claim or application, or (*c*) the organisation by which the claim or application was submitted to the Arbitrator, the Arbitrator may, if he is of the opinion that a claim or application made to him under this Act, or a matter arising out of such a claim or application (including a question whether a term of a determination should be a common rule of the Public Service or of any branch or part of the Public Service), is of such importance that the claim, application or matter should, in the public interest, be dealt with by the Full Court, and subject to the concurrence of the Chief Judge, refer the claim, application or matter to the Full Court " (Section 15 A(1)).

If the Arbitrator refuses to grant an application to refer direct to the Full Court, an appeal against his refusal lies to the Chief Judge of the Court.

It should be noted that in these proceedings (i.e., appeal and reference), the Full Court has the same powers, duties and obligations as though it were the Public Service Arbitrator. It exercises jurisdiction under the Public Service Arbitration Act and not the Conciliation and Arbitration Act and its decisions on appeal or reference must, therefore, be tabled in Parliament before they can have effect.[22]

### *Informal Machinery*

The great expansion of the Commonwealth Public Service and the consequent increase in the volume of claims has tended to produce delays in the hearings by the Arbitrator.[23]

Many staff organisations now see fit to approach the Board with a view to seeking agreement on as many issues as possible at the one time. There is no specific authority for this informal discussion but it saves considerable time and appears to work to the satisfaction of both the Board and the staff organisations. In some cases complete agreement is reached between the Board and the representatives of the staff association; in other cases the agreement may be partial. In the former case the association representatives submit a claim to the Arbitrator in terms of the agreement reached with the Board and, since no objection is lodged by the Board, the Arbitrator can at once issue a determination. In the event of an agreement on some points only, the staff organisation will lodge a claim on the matters remaining at issue and this will be challenged by the Board in the usual manner.

Naturally, in making these agreements with staff associations the Board must be very careful to ensure that no embarrassment is caused to the Arbitrator. Many claims may not lend themselves to this method of

negotiation, and the Board will frequently refuse to enter into informal discussions with a view to a " consent " determination. Nevertheless, the informal " agreement " procedure seems to have resulted not only in a saving of time for the Arbitrator but in a gain to the members of the staff organisations concerned since there is less delay in implementing conditions which have been informally agreed.

Another result of the greatly increased pressure on the Arbitrator was the appointment in 1949 of an assistant to help the Arbitrator in deciding claims. This assistant presides over conferences and the public hearings but, while he has the power to make recommendations to the Arbitrator, only the latter can make the actual determination.

*Conclusion*

The principle of arbitration is now firmly entrenched in the practice of the Public Service of Australia, and this, in effect, makes for dual control over many aspects of Public Service employment. On the one hand, the Public Service Board may make regulations setting out the rules governing, for example, leave, salaries and allowances; on the other hand, the Public Service Arbitrator and ultimately, in some cases, the Arbitration Court will make awards and determinations which will greatly affect Public Service administration.

There have been strong criticisms of the idea of arbitration in the Public Service and it has been contended that the public servant is *sui generis* by virtue of the nature of his work and that the usual principles governing industrial and commercial employment do not, and cannot, apply.[24]

But, although considerable dissatisfaction may be voiced about the existing system of arbitration, it is extremely unlikely that any move to abolish it will take place in the foreseeable future. It is a question of balancing the need for the public servant to feel that he is being justly treated with the necessity of maintaining an efficient system of Public Service control. That a system of arbitration independent of the Public Service Board may weaken the latter is not easy to deny; that it contributes much to the former is equally evident.

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[1]It should be explained that in Australia the control of the Public Service is in the hands of a Public Service Board; the Australian Treasury performs none of the " establishment " functions of its United Kingdom counterpart.

[2]There is, however, a Joint Council which provides some machinery for combined " staff-official " discussions, but there are not the same opportunities for continuous contact that there are in Britain.

[3]Some 80 per cent. of the awards and determinations are made by consent of the parties after negotiation.

[4]Commonwealth Constitution Act, Section 51 (xxxv). For some interesting comments on the political background of this clause, see L. F. Crisp, *The Parliamentary Government of the Commonwealth of Australia*, Longmans, 1947, pp. 19-21.

[5]From 1903-22 control of the Public Service was exercised by a single Commissioner; from 1923-30 he was replaced by a Board of three. During the period 1931-47, as an economy measure, control was once more committed to one Commissioner. Since 1947 a Public Service Board (a Chairman and two Commissioners) has been the controlling authority.

[6]*Report of Public Service Commissioner*, 1904, p. 54.

[7]In October, 1911. a petition was presented to Parliament signed by some four

thousand public servants (out of a total of about twenty thousand). The petition opposed the idea of bringing the Public Service under the jurisdiction of the Arbitration Court and stated " that . . . within the Service . . . general conditions . . . can be defined by Parliament and a more perfect system of administration."

[8]In the debates on the Bill the Government was repeatedly charged with having introduced the measure in order that they might avoid any political odium arising from the necessity to overhaul conditions of service in the Postmaster-General's Department. It was alleged that the Bill was a move to transfer this responsibility from the Government to the Arbitration Court. (See *Commonwealth Parliamentary Debates*, Vols. 61-63.)

[9]*Report of the Public Service Commission*, 1916, pp. 49-50.

[10]Again, as in the case of the 1911 Act, it is not easy to gauge the extent of the feeling in the Public Service. Certainly evidence produced by the Opposition in Parliament demonstrates that a large number of public servants were opposed to the idea of any form of Public Service arbitration.

[11]*Report of Royal Commission on Public Service*, 1920, pp. 12-13.

[12]Many M.P.s viewed with considerable disfavour any move which might increase the powers of the Public Service Commissioner who, in their view, already seemed too independent of Parliament. (See *Commonwealth Parliamentary Debates*, Vols. 92-93.)

[13]In 1952 appeal was allowed from the Arbitrator to the Arbitration Court (see *infra*.)

[14]In practice the procedure followed during public hearings (see *infra*) is substantially that of an ordinary court of law.

[15]*Ibid*, Section 22 (2). No such determination has been disallowed by Parliament solely on these grounds.

[16]There is no statute in Australia which stipulates a basic wage, but the powers of the Conciliation and Arbitration Court have been interpreted in such a manner as to enable the Court to fix one.

[17]*Commonwealth Parliamentary Debates*, Vol. XCIII, p. 4202.

[18]*Commonwealth Parliamentary Debates*, Vol. XCIII, p. 3689.

[19]*Commonwealth Parliamentary Debates*, Vol. LXIII, p. 4883.

[20]An illustration of this occurred in the Postmaster-General's Department. An " excess travelling time " clause had been in operation for many years. On being asked for an interpretation, the Arbitrator disagreed with the Public Service Board's method of implementing the clause. In order to apply the Arbitrator's interpretation retrospectively, it was necessary to obtain details from daily working reports ; these were destroyed after twelve months and therefore no accurate figures could be obtained. In the circumstances the Public Service Board had to reach a compromise with the union concerned.

[21]At present the Conciliation and Arbitration Court is hearing an appeal from the Public Service Board against a decision of the Arbitrator awarding increases in salaries to federal public servants.

[22]This is not the case with the ordinary industrial determinations made by the Court. These become immediately effective without reference to Parliament.

[23]It has been suggested to the writer that at present delays are due not so much to the cause mentioned but to the fact that since the introduction of a system of appeals the Arbitrator has often been forced to " hang fire " on some matter which was *sub judice* the Conciliation and Arbitration Court until thel atter gave its judgment.

[24]See F. A. Bland, *Government in Australia*, Government Printing Office, Sydney, 2nd Edition 1944, pp. XXIV-XVIII.

# *Parliament and the Grants Committee University*

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ALTHOUGH the Public Accounts Committee has from time to time drawn attention to certain features of the work of the University Grants Committee—usually with no result other than that *The Times*, *The Economist*, to name no others, rush in to urge the wisdom of *quieta non movere* or even discreet silence—students of government and administration have devoted little consideration to this typically British, though, paradoxically, even in Britain almost unique, device. Yet the relationship of the U.G.C. to the Government, in the context both of academic freedom and of general political science; its constitutional position and its place in the public finance system; its relations with Parliament (if only their conspicuous near-absence), with the Public Accounts Committee and, to a lesser extent, the Select Committee on Estimates; with the Treasury, and with not the least important of the voluntary bodies in a system where centralisation may still be carped at and *Gleichschaltung* is an obscene word; all these justify some attempt to assess its significance.

The relationship between the State and the Universities is inevitably considered primarily in the context of the U.G.C. Yet "the ordinary university administrator is concerned very little with the Treasury, and not much with the U.G.C., though his livelihood depends on them."[1] His endless official dealings are with the Ministries of Education, Agriculture, Supply, Labour, the Admiralty, the Colonial Office, the Department of Scientific and Industrial Research, the Civil Service Commission and the British Council. "This jumble of departments controls the flow of students, the provision of jobs for graduates and the finance of research, and between them they settle the policy of the Universities . . . or rather there are left in the interstices of inter-departmental confusion large spaces in which the Universities can still make their own policy, even though they are now financially dependent on the State; academic freedom depends in part on inefficiency in the machinery of government."[2] Fortunately there remain other safeguards were these causes of pragmatic irony removed. It is important that in 1951-52, for example, finance for university work was also included in the Estimates of the Air Ministry, the Ministry of Agriculture and Fisheries, the Agricultural Research Council, the Ministry of Education, the Forestry Commission, the Medical Research Council, the D.S.I.R., the Ministry of Supply, and the Treasury (under votes other than that for the U.G.C.). In total, however, the £1,857,406 is small beer in comparison with the £64,626,221 for 1947-52 and the £111,750,000 for 1952-57 provided through the U.G.C.

### *Origin and Authority of Grant*

As early as 1885 (Wales) and 1889 (England) grants were made for "education of university status." On 14th February, 1902, a Treasury Minute appointed a Committee to report on the allocation of such grants. When in March, 1904, they were doubled (to £54,000) the Board of Education was intended to allocate them. The Chancellor of the Exchequer suggested reference to a Committee which might offer guidance on what work was of university standard and also stimulate other sources of revenue like fees and "local benevolence." This "University Colleges Committee" issued its first report in December, 1904. Its third report (23rd February, 1905) suggested a new scheme of grants and an Advisory Committee with discretion to deal with particular circumstances as they arose and to exercise the functions of the quinquennial Committee of Inspectors appointed by the Treasury. The Treasury deferred consideration of this report. In 1911 the administration of the greater part of the grant was transferred to an Advisory Committee under the Board of Education which presented an annual report to H.M. in Council. The Treasury retained responsibility for Welsh contributions. The grants themselves were under various sub-heads of different Votes, notably: Board of Education, Intermediate Education (Wales); Scientific Investigation; Universities and Colleges.

In 1918 the different grants were to a certain extent amalgamated and their amounts increased. It was then considered undesirable to adopt ordinary departmental methods of control and inspection. To ensure uniform and economical distribution of the grants, a Treasury Minute dated 14th July, 1919, established the University Grants Committee responsible directly to the Treasury. The vote was largely concentrated in the Treasury Estimates, Class IV, Vote 11. Thus "the manner in which the U.G.C. came into being and its creeping growth are characteristically British."[3]

### *The Public Accounts Committee and Statutory Authority*

To the present, the Appropriation Act is the only authority for expenditure through the U.G.C. Strictly, this grants and appropriates money for, but does not authorise, services. Usually some other legislative enactment does the latter. Sir Ivor Jennings has expressed some doubt of the legality of expenditure with no other authority than the Appropriation Act[4] but this has never been challenged in the Courts. Education grants up to 1870 had no other parliamentary basis than the vote in Supply and the retrospective authority of the Appropriation Act; the principal grants to School Boards payable under Minutes of the Education Department were laid before Parliament, but the more general grants under the 1870 Act continued on the old basis until 1902, when they were replaced by an Aid Grant.[5] There were other later examples, and in 1932, 1933 and 1937, the P.A.C. expressed strong dislike of this method of authorising expenditure.

The P.A.C. returned to the question of statutory authority in 1946-47[6] and generally deplored its absence. Even the large police grants were discovered to lack such authority. The Treasury[7] accepted the Committee's views save in respect of the National Savings Committee, the D.S.I.R. and the U.G.C. (all in existence before 1932). The P.A.C. pressed for statutory

authority for all continuing services involving substantial expenditure and pressed the point in 1947-48[8] and in 1948-49.[9] The Treasury stated that the first convenient opportunity would be taken to embody the functions of the D.S.I.R. in a statute. But to do this for the National Savings Committee " might raise the issue of the political control of the movement and prove embarrassing." In 1950[10] (the Police Grants having been included in the Miscellaneous Financial Provisions Bill) the question was raised again and action on the D.S.I.R. promised. The P.A.C. even wondered whether the time was not ripe to turn such organisations as the D.S.I.R. and the Medical Research Council into ordinary departments subject to normal Parliamentary and ministerial control. Without going so far in respect of the U.G.C., they were not easily convinced by the arguments against giving it statutory authority.

The U.G.C., they argued, was a purely administrative creation which had never received statutory recognition; so also the practice of quinquennial commitments, which had risen from £1,700,000 in 1932-33 to £12,000,000 in 1948-49. The P.A.C. put these views strongly in 1946-47 and in 1947-48, but the Treasury resisted the demand. It " would involve difficulties affecting the académic freedom of Universities." Sir Edward Bridges maintained that the Universities were *sui generis* and that greater control by Parliament would endanger their proud position. A statute to authorise the practice of continuing commitments would entail criticism by Parliament into fields of university operations. A continuing law could not avoid details. Temptation would be irresistible to prescribe all sorts of statutory guidance and measurements.

The Committee argued that Parliament should " be given the opportunity of reviewing the need for the continuance of this expenditure on the present scale and of determining whether the administrative organisation, which was established at a time when expenditure was on a limited scale and without any assurance of continuance, is equally well adapted for the control and disbursement of the continuing and very substantial expenditure now involved."[11] Both expenditure and administrative machinery were thus called in question.

The Treasury continued to resist. There were strong reasons of policy against legislation. It had never been the policy of any Government that the Universities should be subject to statutory regulations or that academic policy should be controlled by the State. A short Bill merely converting the U.G.C. into a statutory body would have no advantage. It was difficult to see what the content of any longer Bill on the subject would be, because academic standards, on the maintenance of which any grants must be based, were hardly susceptible of statutory definition and no formula could be devised which would automatically measure the extent of assistance needed. The Universities were apprehensive of any encroachment on their present position and the Government believed they had found in the present arrangement the means of reconciling the maintenance of university autonomy with the need for ensuring that voted moneys were well spent in the public interest. The Treasury urged that the exceptional circumstances of university grants justified departure from the normal rule regarding statutory authority for continuing services.

The P.A.C. clearly felt the force of these arguments. In 1948-49 they were " impressed by the arguments advanced by the Treasury in favour of continuing the present system of administration without any enabling legislation in the circumstances now prevailing." In 1950 they explicitly accepted the Treasury view on statutory authority. The Select Committee on Estimates[12] contented itself in 1952 with recording the fact that there had never been any statutory contribution from public funds to Universities. It was " generally recognised," they agreed, " that there were certain non-government bodies which derive the main part of their finances from government sources and which yet should be allowed, in the public interest, to retain the maximum degree of independence."

*Control and Supervision of Expenditure*

Like the P.A.C., before and after, the Estimates Committee did not feel that abandonment of the struggle for statutory authority involved abandonment of the search for other means of control and supervision. This search was primarily, though not exclusively, related to the position of the Comptroller and Auditor-General. In 1948-49[13] the P.A.C. referred pointedly to the rapidly increasing sums for both recurrent and capital expenditure, in addition to grants for student-maintenance under other votes. This expenditure was not accounted for in detail to the Comptroller. " Your Committee would like to see introduced more effective means of securing parliamentary control over this large expenditure of public money. . . . They hope that the Treasury will consider whether without impairing the independence of the Universities any further means can be adopted to inform Parliament more precisely how the grant-in-aid proposed in the Estimate is to be spent and to assure Parliament that grants made to the Universities are wisely used." The Treasury indicated certain technical difficulties affecting the form of the Estimates, mentioned the Reports of the U.G.C. and asked what else could be done.

In 1950 the P.A.C.[14] " felt it necessary to pursue with the Treasury the question whether there is any means of ensuring Parliament that the taxpayers' money is not wasted." They hoped especially for a more thorough review and examination of the needs for the next quinquennium. Pressed thus, and in view of the forthcoming five-year grant, the Treasury appeared to recede a little from their attitude of *non-possumus*. They agreed that something should be done to give Parliament a reasonable account of what had been achieved with the money granted. They promised a review before the new quinquennial grant was agreed with the U.G.C. The P.A.C. emphasised that it did not seek detailed Treasury control. But " Parliament is entitled to expect assurances, based on some broad examination of the Universities' financial arrangements, that the grants are administered with due regard to economy. The information at present available does not enable Parliament to form an opinion." This thirst for information was not likely to be assuaged by the inclusion in a Treasury Minute[15] of the opinion that " no-one is in a position to assure the Committee that the Grants are used wisely and that there is no extravagance or waste." Questioned, Sir Wilfrid Eady replied: " I think we really are unhappy at having had to put that last sentence in. My colleagues in the Treasury who deal with this are no more satisfied with

this last sentence than I." But he could see no way " by way of a return which would help the P.A.C. or Parliament to judge." This calculated(?) ingenuousness he followed up with an extraordinary lapse into personal opinion : " These large sums were voted in 1946 in the financial exuberance which was possible then. If the next grants are to be on a quinquennial basis I imagine that the Chancellor of the Exchequer, whoever presents the Estimates for that, will want to go into very considerable detail by way of review and pick up some of the suggestions and stories that are bruited about, about extravagance and the embarrassment to Universities of having too much money." Was the Treasury wilting? Perhaps. But in 1950-51[16] the Permanent Secretary to the Treasury once again informed the P.A.C. that " there are certain types of activity which can really only be effectively sponsored, or which the Government can only effectively help, by means of a Grant-in-aid." This inevitably meant less stringent control.

The new quinquennium brought still further large increases in grant to which the P.A.C. once more referred.[17] Meanwhile, the Estimates Committee had examined the problem.[18] They pointed out (para. 34) that the exercise of parliamentary control in the past had been hampered by the inadequacy of the information in the Estimates, and because the Annual Reports were for the academic year and were not presented to Parliament until almost a year later. (The 1949-50 Returns were not available when the grant for 1951-52 was before Parliament.) The Treasury admitted some shortcomings in the methods of providing information about the use of grants. They declared that the last thing they wanted was to give an impression that they were anxious to hide anything, and that, in their view, independence did not imply secrecy. The Estimates Committee welcomed the additional information in the 1952-53 Estimates and in particular the details of non-recurrent grants and the purposes for which they were to be used. But they felt handicapped by not being aware of the basis of the new quinquennial programme and considered that a more precise statement of the reasons for the increase was desirable.

Some detailed recommendations were also made. In the Estimates each year a note should be inserted reconciling the amount of the quinquennial grant proposed for the academic year with the total figure of recurrent grant shown in the Estimates for the financial year. The fullest possible information should be given to Parliament, preferably in the Estimates, wherever changes in a current grant were made (either in the quinquennial review or at other times) showing the reasons for the changes and the basis on which they were calculated. In the end, however, while re-asserting that increased grants implied increased responsibility on the part of the Government for their application, the Estimates Committee stated that " the continued existence of the U.G.C. seems to be the best solution to the problem of maintaining control." The P.A.C.[19] agreed with the Estimates Committee that " subject to the provision of certain further information in the Estimates, current arrangements for control are a reasonable compromise between the general desire to maintain the independence of the Universities and the need for the exercise of proper financial control both by the U.G.C. and by Parliament." But this did not end the attempt to secure greater supervision of the expenditure of the grants.

*Non-Recurrent Grants*

The Estimates Committee had recommended much closer control over non-recurrent grants. They noted a Treasury Minute of 29th November, 1951, which had welcomed the suggestion from the P.A.C.[20] that the books and accounts of bodies which received the greater part of their income from public funds should normally be open to inspection by the Comptroller, and in which the Treasury had stated that they would seek to ensure that this became the general practice for the future. The Estimates Committee recommended that this practice should cover all money issued by way of non-recurrent grant to Universities for capital development. " It does not appear to them that it would in any way encroach on the freedom of the University since this money is voted annually for specific purposes." The P.A.C.[21] raised a slightly different, though allied, problem before pursuing the theme of non-recurrent grants. They noted that the U.G.C. did not audit " earmarked " grants and that it was not their practice to consult the Universities' Auditors. The Universities were paid these grants whether they spent them or not. Unspent balances were put to general reserve. In addition, it was noted that during the quinquennium just ending large additional grants had been made over and above the original allocation. " The advantages of a system of quinquennial grants, notified in advance, may be materially lessened if large additional grants are made during the quinquennium. . . . Your Committee feel that they should be accounted for separately and that arrangements should be made to satisfy Parliament that they are used solely for the purposes for which they were granted and not applied by Universities to the general purposes for which the quinquennial grants were made." The Treasury replied[22] that they had anticipated the P.A.C.'s wishes in respect of unspent balances of special grants (with the exception of salaries) but would have to give further consideration to the question of keeping separate accounts for additional grants.

Non-recurrent grants, however, were the main concern of the P.A.C. in 1951-52. They had amounted to £7,294,567 in the academic year 1950-51. Each grant was determined by the U.G.C. Large capital projects were examined by its Works and Buildings Sub-Committee and the Ministry of Works, which was also consulted on schemes which would not normally come before the Sub-Committee. The latter examined planned estimates, though not tenders. Further, the 1952-53 Estimates had an Appendix showing details of major works. But the P.A.C. were firmly of the opinion that " the present system of controlling these grants, which stops short at an examination of plans and estimates, is less than Parliament is entitled to, or accustomed to expect, where such appreciable amounts of voted moneys are involved." All the records should be open to examination by the Comptroller.

The Treasury reply[23] indicated that they were not prepared to extend the general principle set out in the previous year (above) to the U.G.C. They did not see why, if the lowest tender were accepted, the U.G.C. need inspect; in the few cases where it was not desired to accept such tender the U.G.C. were, in fact, consulted. Where a claim under the " rise and fall clause," contained in the standard form used by the Royal Institute of British Architects, was made, the U.G.C. were consulted. Prior approval of the

U.G.C. was needed for any variation in specifications involving greater cost unless comparable savings were possible. It would be " difficult " to accept the recommendation that the Comptroller should inspect the books of Universities. The requirement of " due economy " raised important matters of " academic policy." Matters even of " general economic policy " might be involved—in this the Treasury was invoking the traditional warning to all Select Committees. For such Committees are precluded from dealing with policy.

But the P.A.C. is traditionally persistent. In 1952-53[24] it raised the question as to whether the Treasury's general attitude towards applications for capital grants to Universities might not be too generous. The Treasury had resisted the proposal that books and accounts should be open to the Comptroller on the grounds that they were audited by the Universities' Auditors, yet there was no information about the Universities' instructions to those Auditors. Already it appeared that the U.G.C. had felt impelled to disallow certain costs and the P.A.C. thought this strengthened its case for further control. They " were not at present able to give Parliament an unqualified assurance that there is no irregularity or abuse and that the grants have been spent on the purposes for which they were voted with due regard to the elimination of waste and extravagance." (Did any University Bursar blush at these expressions?) Whether the system of financial control was adequate and whether the U.G.C. exercised proper control were matters which clearly concerned Parliament. Firmly, the P.A.C. repeated its recommendation: the Comptroller must be brought in.

On this occasion *The Times* stepped in with a warning that the " thin end of the wedge " must be resisted. It might be used to upset the " present admirably but delicately balanced relationship between Government and Universities." No elected Assembly and no Government could determine in detail the proper objects of scholarly expenditure; it would be beyond their competence. The great advantage of the U.G.C. was that it enjoyed the confidence both of the Treasury and the Universities. " The special trust placed in the Universities is a natural incitement to those who watch over the public purse. They find a closed door and they would have it open. But it is a public interest that it should remain shut." Inspection by Government Auditors might be a precedent on which much could be built. It is difficult to detach capital expenditure from the general development of academic studies. Inspection could lead to questions, and the questions to an argument in which all the power would lie on one side and all the knowledge on the other.

Mr. George Benson (Labour), Chairman of the P.A.C., denied strongly that the Committee wished the Government, far less the Comptroller, to determine in detail " the proper objects of scholarly expenditure." What was needed was merely the same degree of protection to the taxpayer in relation to the expenditure of money for buildings by the Universities as existed in relation to government expenditure on other buildings. Policy was in no way involved, not even the necessity for, or desirability of, the building in question. It was a matter of methods of contracting and of recording and controlling expenditure " in order to judge whether these are reasonably designed and properly applied to ensure effective safeguards against waste and extrava-

gance or other abuse." In Mr. Benson's opinion this would not " lead the Comptroller to call on either the Treasury or the U.G.C. to justify to him the academic policy determining that expenditure."

The Treasury clearly preferred *The Times* leader to Mr. Benson's letter to *The Times*.[25] The relationship, the Treasury Minute recalled, between the Universities on the one hand and Parliament and the Government on the other was a very special one. The Treasury had never examined the Universities' books and did not aim at detailed control. If the Comptroller were brought in, the Treasury would, before long, be compelled to expand their intervention in University matters and to enlarge their control in a way which would certainly change and, the Treasury believed, be prejudicial to the present harmonious relationship between the Universities and the U.G.C. Two points arose : (i) to ensure that grants were duly appropriated to purposes for which they were voted, (ii) to ensure economy in their use. The first, the Treasury thought, would raise no problems. For the second, they announced their intention of discussing with the Universities the appointment by the U.G.C. of a small committee to enquire what changes might be desirable so far as contracts, records and control of expenditure were concerned, and what proper safeguards could be erected against waste, extravagance, or other abuse. Such a Committee, consisting of four under the Chairmanship of Sir George Gater, was in fact appointed.

Back came the P.A.C.[26] They noted that the decision to resist the bringing in of the Comptroller was in no way influenced, according to the Treasury, by the Universities' objections. They noted the appointment of a special investigating Committee whose approach would be " wider and more general " than an *ad hoc* investigation by the Comptroller's staff. But they accepted this compromise reluctantly and with the intention of reconsidering the matter later. They were not convinced by the objections to their own proposal and regretted the Treasury's reluctance to accept it. Then came another line of approach. The papers and records of the U.G.C. which contain requests from the Universities for assistance and the consideration of them by that Committee were not, the P.A.C. noted, seen by the Comptroller or by the Treasury. They strongly urged that the Comptroller should have access to such documents so that he might examine the requests and " ensure due economy in the expenditure of these very large grants." They added the opinion that this " would not necessitate any contact with the Universities."

On this occasion *The Times* fulminated about the " thick end of the wedge." In a strong leader it argued that " if the U.G.C.'s proceedings and the papers before it relating to non-recurrent grants are to be open to subsequent inspection by the Comptroller its status as an independent body would have to be revised. It would be interesting to know also how many people in those circumstances would be ready in future to serve upon it." The Treasury[27] refrained from commenting in detail and hoped that the P.A.C. would not press the point until it had received the report of the Special Committee of four. But it issued the preliminary warning that the proposal had " implications which would require very full examination and which could not be dissociated from the larger question of access to the accounts of the Universities themselves." Nor, indeed, it would appear,

from the still larger question of academic freedom. The outcome of this new phase of a struggle which has now lasted nearly ten years will be awaited with considerable interest.

*The University Grants Committee and the Treasury*

The foregoing discussion reveals clearly that, with the possible exception of Sir Wilfrid Eady's lapse (see pp. 78-79), the Treasury has unflinchingly defended the U.G.C. from the persistent and varied approaches of the P.A.C. The relations between the Treasury and the U.G.C. are of obvious and perhaps supreme importance. The Treasury is responsible for the U.G.C. Its Chairman and the other seventeen members are appointed by the Chancellor of the Exchequer. The administrative costs (£28,420 in 1951-52) are borne on the Treasury Vote (Class 1, Vote 4, Subheads J1 and J2). The Committee's staff is chosen in consultation with the Treasury. Although in the early days there was some restlessness in the Treasury itself and it was so tempted to apply some of its normal powers of review over money voted to the Universities that Sir William McCormick, the first Chairman, threatened to resign, the relationship between the Treasury and the U.G.C. is now on all sides described as " informal and harmonious." At first merely expected to advise the Treasury on the application of public money granted to the Universities, in practice the U.G.C. has become also an executive body. The Treasury has imposed upon itself a self-denying ordinance and has left it to the Committee to allocate the money among the Universities and to perform the office work connected with this allocation and with the extensive building programme since 1947. It is not without significance that in 1951 the Committee's Secretary was raised from the rank of Assistant Secretary to that of Third Secretary—equal in status to the Treasury official who deals with him.

The evidence of the latter, Mr. E. W. Playfair, C.B., before the Estimates Committee, confirmed that the day-to-day work of expending the grants devolved almost wholly on the U.G.C. He came " into the sphere of authority when it came to large questions of policy." The U.G.C. recommendations for the new quinquennium came before him and his colleague, Mr. Owen, and they went " into them in great detail, discussed them, and made recommendations to the Chancellor of the Exchequer." He considers any earmarked special capital grants yearly, to fix the total amount for inclusion in the Estimates, but is not approached in regard to the detailed allocation to the various Universities unless there is any change of policy, in which case the U.G.C. consults with him. Once the Chancellor of the Exchequer has decided upon the quinquennial grant the U.G.C. allocates it and " the giving of the authority will be largely formal." The Chancellor has never reduced a grant after having agreed the quinquennial sum, except in emergency, e.g., on the advice of the Geddes and May Committees.

The U.G.C. has some idea of its sub-allocations when it comes to the Treasury for a new quinquennial grant. It may have altered the Universities' requests, it may have suggested cuts. But, said Mr. Playfair, " I would not like to speak too closely for them in that matter. We respect their privacy in that." Comparisons with the Treasury attitude to Government Depart-

ments pointed the moral. Mr. Playfair also dealt with the Ministry of Education. Here he met "an accounting officer, a trustworthy colleague, but the servant of another Minister and out to fight his battle." But the U.G.C. "are, in our minds, part of the Treasury . . . our trustworthy agents . . . we do not put them through the same kind of grilling." In reply to a suggestion that there might be certain dangers in this approach, he replied: "We hope we deal with them by having highly qualified staff with Treasury training who serve an extremely admirable Committee who always astonish us by their Treasury-mindedness." (Is the U.G.C. in return astonished by the University-mindedness of the Treasury?) No difficulties arose as to whether the staff were servants of the Treasury or the Committee. "The relations . . . are so close, [the U.G.C.] is so much a part of the Treasury that the question never even formed itself in our minds."

Sir Edward Hale, C.B., Secretary to the U.G.C., confirmed this general attitude: "My Minister is the Chancellor of the Exchequer. . . . We have a separate machinery of our own but in a sense we feel that we are part of the Treasury. The office is drafted almost wholly from the Treasury and we still feel a strong sense of kinship to the Department." The fact that no representatives of the Treasury sit with the Committee during its normal working—though assessors are permanently attached from other Ministries, e.g., Education—seems not to matter. Nor do the normal reasons given by the Treasury for not, as the P.A.C. has suggested, extending the arrangement (which works, e.g., for the Arts Council), apply to the U.G.C., save perhaps the reason that the appointment of assessors tends to detract from the independence of the body. The Treasury seems not to fear too close an identification with the U.G.C., it certainly does not desire to dampen the ardour of experts and enthusiasts, and it is not afraid of an inability to achieve a suitable detachment, if indeed it desires such.[28]

The financial arrangements assist the near-autonomy of the U.G.C. for the Parliamentary vote is in the form of a grant-in-aid. Like the many other grants-in-aid any unspent balance at the 31st March is not surrenderable to the Exchequer. But, whereas other grants-in-aid are paid direct to the recipient bodies, that to the Universities is voted annually by Parliament as a single grant-in-aid and paid into a deposit account on which the Treasury operates. Provision for recurrent and non-recurrent grants is in the same account and "simply held separately in the Universities' account books." The Chancellor would not normally make any stipulations when allocating the quinquennial sum. "The grant is, in principle, a contribution to income and the right to receive the grant does not depend on a submission of audited expenditure—an examination of their expenditure as, for instance, the education grant for the L.E.A.s"(!). Further down the hierarchy "once a recurrent grant gets into [the Universities'] income, it is not possible to say that it was spent on one thing rather than another." Moreover, "the Treasury would never, I think, tell us to give more or less to some particular University. They never have done so and it was the whole essence of the appointment of the U.G.C. that they should never do so."

The subtle relationship between the Treasury and the U.G.C. can be fully appreciated only in the context of many details such as those in the evidence before the Estimates Committee, and it may be doubted whether

even that Committee penetrated fully into the mysteries of what appears to be a theological rather than an administrative problem! One thing is certain. The attitude of the Treasury is consciously—and conscientiously—calculated to implement the general policy of the Government towards the U.G.C. and university education.

### *Government, U.G.C., and Universities*

What that general policy is has seldom been called in question even by university representatives who might pardonably be aware, if not yet in this country afraid, of state interference. " The administration of state funds by the U.G.C. . . ., while it passed muster with the financial critics of the House of Commons, left the Universities almost complete freedom to run their own affairs."[29] The attitude of the P.A.C. may cast doubt on the former assertion. The attitude of the Government and of the Treasury has consistently ensured the truth of the latter.

As the U.G.C. Report for 1929-30 to 1934-35 put it, " doctrines of sovereignty have seldom been pushed to extremes and where the zeal for centralisation or bureaucratic regimentation either has never been strong or has been kept within bounds, the risks to university autonomy are relatively small." And in the 1947 Report (p. 28): " University affairs have never become a matter of political contention and successive Governments have shown themselves scrupulously careful to avoid even the appearance of interference with academic liberty. The very large sums voted by Parliament are entrusted to the Universities without the detailed control of expenditure which is no doubt proper in some other fields of government subvention. . . . We are very conscious of the weight of the responsibility which rests on us as *intermediaries* between the State and the Universities." The Editor of the *Universities Quarterly* (February, 1948) had little hesitation in asserting that " never has the Government of any country given its Universities such liberal grants and such complete freedom on essentials combined with the necessary degree of planning on a national scale." It may be that in this " off-the-record meeting of minds . . . the Government holds the best cards and has not hesitated to play them."[30] Yet the Barlow Committee (its Chairman a Second Secretary of the Treasury and its chief " contact man " with the U.G.C.) has said that the State was perhaps *over-concerned* lest there should be even a suggestion of interference.

The final and controlling decision of the Chancellor of the Exchequer is essentially the determination by the Government of what can be afforded in the light of other commitments. It is a *political decision.* But as Miss Margery Fry has said,[31] the U.G.C. is " a possible buffer against any *political pressure* which might be exercised by the Government (though in all fairness it should be said that during its nearly thirty years of life the U.G.C. has never been conscious of such pressures) upon the recipient bodies." Despite an extension of the terms of reference, despite the fact that (as the Barlow Committee foresaw) " circumstances demand that (the U.G.C.) should increasingly concern itself with positive university policy," despite the sensational alteration in the rate of Exchequer grant, the machinery remains largely unchanged and its spirit unaffected. Nor, despite the constant nagging of the P.A.C., does anyone appear to wish it otherwise.

### *Parliament, The U.G.C., and the Universities*

The P.A.C., as was its plain duty, spoke constantly of the need for *Parliamentary* control. The Chairman of the Estimates Committee (qu. 83) asserted that " the ordinary person would like to know about the U.G.C. For instance, what kind of university expenditure it meets." Yet Mr. Mulley, M.P. (Labour), a member of the Estimates Committee, is on record as having said : " I think, my feeling certainly is, that if every M.P. had been privileged to be here during the discussions we have had . . . they would have been satisfied that the information given about the grant was sufficient to justify it." He added that " all additional information will be welcomed from the ordinary members' point of view." But it is permissible to wonder how many M.P.s are aware of, how many appreciate, the P.A.C.'s struggle on their behalf. Up to July, 1951, no one could recall a question being asked in the House of Commons as to why an institution in his constituency had been shabbily treated—though such a question might be expected only by an American.[32] More pertinent, perhaps, no one could recall that on any Supply Day the House of Commons ever debated the functioning of the U.G.C.

The Estimates Committee (para. 28) considered that Parliament was bound to look as carefully as possible at the manner in which such a considerable vote is spent from year to year. " There must inevitably be a conflict between the general desire to maintain the independence of the Universities and the need for the exercise of proper financial control both by the U.G.C. and by Parliament." The U.G.C., the Committee argued, was not " in the position of independent outside agencies which are normally left to run their affairs without close parliamentary inspection." Yet Parliament as a whole appears to be as content as the Estimates Committee to accept the assurance (para. 36) that " the danger inherent in the system, namely that bodies which expend public money without direct Treasury control may not exercise the same care as they would have done if they had been dependent on their own resources, was reduced to a minimum by the method of supervision." The American observers[33] may, in the long run, be correct in asserting that " for various reasons, not all having to do with political ethics, the principle of greater accountability to Parliament . . . will come out victorious." They may argue that the British system, which deprives the elected representatives of the taxpayers of their normal participation in voting and supervising public money, raises a nice point of political theory. The point is more likely to be discussed in the Universities—still retaining their freedom from control—than in the House of Commons.

### *The U.G.C. and the Universities*

The nature of this freedom is best illustrated, finally, by reference to the " intimate and in many respects informal relationship between those responsible for formulating and executing university policy " and the U.G.C.[34] And here it is convenient to indicate the general composition of the U.G.C. In 1955, besides the full-time Chairman, there were nine Professors and other University teachers, two heads of Colleges from Oxford and Cambridge, three men of affairs from industry and commerce, a Director

of Education from a local authority, the Headmaster of a Grammar School and a retired head of one of the Colleges of London University. " The members are not selected as representatives of any particular interest; the overruling consideration is that they should personally carry the confidence of the Chancellor and of the Universities, though attention is also paid to achieving some balance in the academic membership both geographically and with reference to the most important interests in University teaching and research."[35]

Looking forward in 1947, the U.G.C. saw that " the road to an ordered plan of academic development is not that of dictation by an external authority . . . we feel no doubt that the technique of informal consultations and discussion with the Committee of Vice-Chancellors and with representatives of individual Universities on which we have mainly relied in the past, is of equal applicability to the present situation. The function which we exercise in this way is, as we see it, not one of direction but of stimulation, co-ordination and advice." The U.G.C. is more than a " fiscal go-between."[36] But Sir Walter Moberly[37] (Chairman, 1935-49) has said that " the U.G.C. disdains any desire to lay down policy for the Universities, to run the show and tell the Universities where they were to go." Professor M. L. Jacks,[38] a member of the U.G.C., considers that " the methods adopted by the U.G.C. in distributing the Treasury grants have been models of wisdom and broad-mindedness." It is significant that in the Committee, heads are seldom, if ever, counted. The Chairman told his American enquirers that he could recall only one occasion on which an important decision on policy was determined by a majority vote and not by the " sense of the meeting."

Of course, " suggestions may be made which come with rather special weight from a body which ' advises ' both the givers and the recipients of large sums of money."[39] The Estimates Committee (para. 18) concluded that while the Universities were not required by the U.G.C. to spend their allocation in any particular way, they were well aware of the Committee's wishes and there was an *implied obligation* not to divert money to purposes not favoured by it. In due course the Universities would need another quinquennial grant and would stand a better chance if they had made the best use of their money in the past. Yet " witnesses were unanimous in their assurances that consultations always ended in agreement and that there was no question of the Committee forcing ideas upon unwilling Universities " (para. 20). The U.G.C. exercises its influence by (i) supervision of quinquennial staff requirements (salaries constitute about half the total expenditure), (ii) the receipt of annual returns of staff, students and expenditure, (iii) continuous personal contact. The latter, described as " unofficial audit by general impression," was most effective. " The closer the control exercised the more it would seem to encroach upon the autonomy of the Universities. Both they and the Committee realise the possible conflict of public interest, however, and your Committee believe . . . a reasonable compromise has been reached " (para. 33).

The Secretary, Sir Edward Hale, threw light on some details of this co-operative working, " in which it is perhaps rather difficult to say who does which." The Committee might indicate that certain fields once established ought to be maintained fully, but it would be difficult anyhow to

reduce them owing to commitments to staff, etc. The Committee would not seek to preclude certain activities directly. They would rather indicate that they had not taken into account, in making their grant, the whole or nearly the whole of the cost of such activities. " That will be noted by the University as an indication that we are not particularly keen on their doing it on that scale. Then they will, presumably in most cases, just go more gently in that field." There is no discussion with the Universities as a whole about the distribution of the total grant. They hear nothing till they hear the amount they will receive. Nor is the block grant allocated to anything in particular; it does not carry with it any precise directions as to how it is to be spent. On specific projects, Universities can always go ahead though " always with the realisation that when the Committee come to the end of the quinquennium they will not think very kindly of them for doing that." Yet—there may be a stage when the University knows better and " may demonstrate to us that they are indeed right." Normally, however, the University would discontinue or diminish an activity about which the Committee expressed a " somewhat doubtful view."

The Committee do not write specifically to a University to indicate the activities the grant is intended to cover, but do indicate some other things that have not been taken into account and dealt with in the grant. In discussions with the Vice-Chancellors the Committee can " point to a large number of things which were not put in writing . . . as a definite instruction." Might the University obtain a grant for engineering and endow a chair in classics? Theoretically, yes. " Of course they realise they would be meeting us again and it does not, in fact, happen. Our relationship is one of such close co-operation that one is always quite sure it will not happen." Sir Arthur Trueman (Chairman, U.G.C., 1949-53) stated that " our comments are so readily taken by the Universities and they so readily act upon them, I think they might claim that they discover these things for themselves. We feel that is a much better way."

Mr. Enoch Powell, M.P. (Conservative), pressed for further elucidation. The amount of the block grant, he understood, was originally fixed by obtaining estimates of the sums desired by the Universities for particular purposes, on the basis of which the total was made. " So although the sum is not in itself earmarked by compartments it was formed originally of sums devoted to particular purposes, and I take it you examine the estimates with a view to seeing that these purposes are still in mind? " This was accepted with a laconic " Yes." But when Mr. Powell proceeded to deduce that the Committee would seek to influence policy by a more detailed break-down of the grant, the answer was an equally laconic " No." " One hopes the University follows a pattern it has made out without making out for the University's benefit as detailed a pattern as one would otherwise feel necessary. . . . When we tell them what their grants are, they will have to cut their coat according to the cloth, but the design of the coat will be largely theirs, mainly theirs."

In such an atmosphere it seems almost unmannerly to use the word " sanction." Used it was. But the sanction was " not the approval of expenditure for grant but the knowledge in the mind of the Universities that there is always another quinquennium, and that if they were to do something

of which the Committee disapproved it would affect what the Committee would recommend for them in the following quinquennium." How did the representatives of the Vice-Chancellors and Principals see it? The Universities ought not to be parties to the making of policy. That is the business of the U.G.C.[40] But " we are in such happy relations that either side can make an approach."[41] No " formal procedure could intensify or quicken the continuous consultation which goes on."[42] The outsider can readily agree with Sir Hector Hetherington (Vice-Chancellor of Glasgow University) that the relationship is " difficult to define, and could easily be destroyed." And, in so far as the phrase has meaning, that decisions depend on " the overwhelming factor of the possibilities." No one seemed to feel an atmosphere of direction or even " advice." There was " a sort of moral obligation and a lot more I think " to use the money as the U.G.C. intended.[43] There were " the ominous words ' such and such a development has not been taken into account for grant purposes ' but it very rarely comes as forcibly as that."[42] " It is not compulsion, it is an honourable engagement."[40] Even reference to the " national interest " might be so wide that " it is not likely any proper academic activity would get ruled out on that ground."[44] Well might the Estimates Committee be " impressed by the contact that exists between the U.G.C. and the Universities and the continuity that implies." Whether they really discerned the precise working of the contact may be doubted. If the Universities are considered as well as the U.G.C. and the Treasury, the problem appears to be more theological than ever.

*Earmarked Grants*

Earmarked grants did appear for some time to threaten University freedom. They were deprecated in the Interim Report for 1947-51 (Cmd. 8473, February, 1952). The Estimates Committee thought they might be effective in starting new studies or for large-scale extensions, though they agreed that once a particular development had taken root it should compete with other faculties for funds: " There are occasions when the Universities themselves may not be in a position to be the best judges of what studies need to be developed in the national interest " (para. 39). The Estimates Committee offered the paradoxical consolation that Universities might more simply account for an earmarked grant and that the rest of their expenditure need not be examined. Sir Edward Hale, however, thought that " in the relationship between ourselves and the Universities it introduces an unnecessary degree of complicated reporting which it would be desirable to avoid when we can." Sir John Stopford, Vice-Chancellor of the University of Manchester and Member of the Goodenough Committee (one of six who by their reports had encouraged earmarked grants), was firm that the device should be dropped at the earliest possible moment. For the quinquennium 1952-57 the earmarked grants disappeared. *The Times* (10th April, 1952) described this abolition as " the chief constitutional mark of the quinquennium."

*He who Pays the Piper . . .*

The U.G.C. in its 1936 Report (p. 49) argued that freedom implied that " for their main financial support . . . Universities . . . must continue

to depend on sources other than those provided by the State." By 1947 grants had been doubled and the U.G.C. thought that " the question . . . cannot be avoided whether the greatly increased dependence . . . on government grants may carry with it a threat to their continued existence as free institutions " (p. 11). They assumed that in administering much larger funds they must exercise a somewhat greater measure of influence over university policy. The Committee of Vice-Chancellors[45] indeed made clear their acceptance of the view " that the Government has not only the right but the duty to satisfy itself that every field of study which in the national interest ought to be cultivated in Great Britain is in fact cultivated in the university system and that the resources which are placed at the disposal of the Universities are being used with full regard to efficiency and economy." The U.G.C. were " glad to have a greater measure of guidance from the Government than until quite recently they have been accustomed to receive " and fully recognised " the wider responsibility which falls upon us as advisers to Your Lordships."

There has, however, been little evidence of any significant change since 1947. Without having any more power or influence than has been shown, the U.G.C. felt able to say that " in our judgment the unprecedentedly large sums which Parliament has provided for the Universities during the present quinquennium have been expended judiciously and in a manner conducive to the public interest."[46] The Government appears to have accepted, without question, this assurance. In theory the larger the grant the greater the danger of control. Much depends, however, on the degree of control from which you start. There is much in Sir Hector Hetherington's viewpoint that he did not know that " the danger is very much greater now when the State is paying two-thirds of our expenditure than it was when the State was paying one-third. It could make the situation much more difficult if you were to lose two-thirds of your income than if you were to lose one-third, but in principle it is the same."[47]

### *A Peculiar Institution?*

Valid generalisations about the reasons for the success of the U.G.C. are not easy to make. There are " peculiar " reasons for its success in its own field. One principal reason is undoubtedly that " the Universities are probably best understood by a body consisting mainly of University Professors and persons eminent in the academic world acting on behalf of the Treasury. They are, therefore, likely to feel more confidence in such a body than in the Treasury itself where allocation of the grant is concerned."[48] The Estimates Committee also " gained the impression that it may also depend to a large extent upon particular personalities." Further, the members of the U.G.C., as " educators," are proficient observers of and counsellors to the Universities free from temptation to become bureaucrats. If they disagree, they do not do so in public. The administrative set-up " can hardly be defended in strict logic, or maintained according to defined rules."[49] " The success of the U.G.C. rests fundamentally upon unwritten conventions and personal and social relations of a homogeneous community of university men in and out of the government, who share common tastes and a common outlook to a degree unmatched by any similar relationship in the U.S.

Attempts to formalise these relationships by administrative regulations would destroy them and leave a vacuum which bureaucracy would soon fill."[50] Again, the system is "a highly important phenomenon which is British and which cannot be exported."[51] And the centre of the system, according to these American critics? The Athenaeum Club—almost a part of the British Government!

This need not be taken too seriously. But it is doubtful whether the traditions and precedents established over a long period and developed when the Universities were not of such great public concern, would have found their place in an administrative system developed later and under different circumstances. The U.G.C. remains *sui generis*—though not for this reason the less worthy of attention as an administrative device which seems as functionally perfect as any of the empirical achievements of this country.

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[1]Mackenzie, Chapter in *British Government Since* 1918, pp. 66-67.

[2]*Ibid.*

[3]Lindsey Rogers (Burgess Professor of Public Law, Columbia University), *The University Grants Committee*, p. 82.

[4]Sir Ivor Jennings, *Parliament*, pp. 285-6.

[5]*Education* 1900-1950, Cmd. P. 244.

[6]P.A.C., Epitome of Reports, 1938-50, H.C. 155.

[7]Treasury Minute, 28th January, 1948.

[8]P.A.C., 1947-48, Second Report, H.C. 199, p. 5.

[9]P.A.C., 1948-49, Third Report, H.C. 233, pp. 4-5.

[10]P.A.C., 1950, Fourth Report, H.C. 138.

[11]H.C. 199, p. 5.

[12]S.C.E., Fifth Report, H.C. 163, 1952.

[13]H.C. 233, pp. 4-5.

[14]H.C. 138.

[15]*Ibid*, Minutes of Evidence, pp. 312-313.

[16]P.A.C., 1950-51, Fourth Report, H.C. 241.

[17]P.A.C., 1951-52, Third Report, H.C. 253, pp. 11-13.

[18]S.C.E., H.C. 163.

[19]H.C. 253.

[20]H.C. 241.

[21]H.C. 253.

[22]Treasury Minute, 18th November, 1952.

[23]*Ibid.*

[24]P.A.C., 1952-53, Third Report, H.C. 203, paras. 1-4.

[25]Treasury Minute, 15th December, 1953.

[26]P.A.C., 1953-54, Third Report, H.C. 231, paras. 21-33.

[27]Treasury Minute, 31st January, 1955.

[28]J. W. Grove, "Grants-in-Aid to Public Bodies," *Public Administration*, Vol. XXX, Winter, 1952, pp. 299-314.

[29]Rt. Hon. C. R. Attlee, 5th Centenary Celebrations of Glasgow University, *Glasgow Herald*, 22nd June, 1951.

[30]"Government Assistance to Universities in Great Britain" (memoranda submitted to Commission on Financing Education), p. 93.

[31]*Universities Quarterly*, Vol. 2, No. 3, May, 1948, pp. 221-30.

[32]Lindsey Rogers, p. 85.

[33]*Ibid.*

[34]Report of U.G.C. for 1935-47.

[35]Sir Keith Murray (Chairman U.G.C.), "The work of the U.G.C. in Great Britain" (in *Universiteit En Hogeschool*, Jaargang No. 6, p. 254).

[36]"Government Assistance, etc.," p. 20.

[37]Proceedings of Home Universities Conference, 1947, p. 111.

[38]M. L. Jacks, *Modern Trends in Education*, 1950, p. 187.

[39]Margery Fry, *loc cit.*

[40]Evidence of Sir Hector Hetherington.

[41]Evidence of Sir John Stopford.

[42]Evidence of Dr. D. W. Logan.

[43]Evidence of Sir Maurice Bowra.

[44]Evidence of Sir Edward Hale.

[45]"Note on University Policy and Finance," July, 1946.

[46]1952, Report of U.G.C., Cmd. 8473.

[47]Sir Hector Hetherington appears to have changed his views somewhat on this point. Cf. "The British University System 1914-1954," P. J. Anderson Memorial Lecture. 1954, p.31.

[48]S.C.E., paras. 43-50.

[49]Margery Fry, *loc cit.*

[50]"Government Assistance, etc.," p. 113.

[51]*Ibid.*

# *The Select Committee on the Nationalised Industries*

By D. N. CHESTER

IN 1953 a parliamentary committee recommended the appointment of a committee of the House of Commons to examine the Nationalised Industries. (See *Public Administration*, Autumn, 1953, pp. 269-75.) Opinion was divided in the House of Commons, Whitehall and among members of the Boards of these industries about the merits of this proposal. On 16th March, 1955, however, such a committee was established. It met twice before Parliament was prorogued, but issued no report. A committee with exactly the same terms of reference and substantially the same membership was appointed on 7th July by the new House of Commons. After three meetings the committee has issued a short report (H.C. 120, 14th November, 1955), in which it says that in its opinion " the Order of Reference as at present drafted leaves insufficient scope to make enquiries or to obtain further information regarding the Nationalised Industries which would be of any real use to the House." So another stage is reached in the attempt to secure a greater measure of parliamentary control over the bodies responsible for the administration of such major industries as coal, gas, electricity and transport.

The result is not entirely unexpected, given the British attitude towards parliamentary committees and the legal status of the public corporations governing these industries. The House of Commons does not hand over to committees control over the policy of the Executive. The Public Accounts Committee, the Select Committee on Estimates and the Select Committee on Statutory Instruments do not consider or comment upon ministerial policy. In these cases, however, they still find plenty to do for they are not excluded from considering detail, and important detail at that. But one of the main reasons for the establishment of the public corporation, instead of using the more normal ministry, was to keep the House of Commons away from the day-to-day management of these industries.

The Order of Reference appointed this new Select Committee " to examine the Reports and Accounts of the Nationalised Industries . . . and to obtain further information as to so much of the current policy and practices of those industries as are not matters which :

(*a*) Have been decided by or clearly engage the responsibility of any Ministers ;

(*b*) Concern wages and conditions of employment and other questions normally decided by collective bargaining arrangements ;

(*c*) Fall to be considered through formal machinery established by the relevant Statutes; or

(*d*) Are matters of day-to-day administration."

Items (*b*) and (*c*) appear to have bothered the committee less than item (*a*). No parliamentarian wishes to get mixed up with the settlement of wages and conditions, nor would the committee personally want to become another consumers' complaint tribunal. It was the restriction under (*a*) which

appears to have impressed them most. They had evidence from the Ministries concerned mainly consisting of long lists of specific Ministerial powers in respect of these industries. In addition they appear to have been impressed by the wide-ranging effect of the Ministers' power to issue directions of a general character to the Boards. Mr. George Strauss (Labour, and a former Minister of Supply) thought the uncertain nature of this power left the committee in an impossible position. " Who is to decide whether a matter engages the responsibility of the Minister or not. Is it this committee, is it the Minister, or is it the House? " he asked. This led the committee and the Attorney-General into the deep waters of what constitutes " responsibility " and what was the significance of such phrases as " have been decided by " and " clearly engaged." The Chairman (Sir Patrick Spens) said at the same meeting (on 20th April, 1955): " I have been looking . . . at the last Report of The Gas Council, as being possibly the simplest of all to start with, but can hardly get a page and devise a sensible question which does not involve one of those four matters " (i.e., (*a*), (*b*), (*c*) and (*d*) in the terms of reference).[1]

The published Minutes make it clear that the members of the committee had already decided at their second meeting that the terms of reference made it impossible for them to conduct any enquiry they thought worthwhile and only shortage of time prevented them reporting to this effect in the last Parliament. In the current Parliament they heard evidence from two Assistant Secretaries, but not from any member of the Government nor from the Permanent Secretaries of the Departments concerned. The civil servants were asked only a few factual questions about their Ministers' powers, but two of the replies must have strengthened the committee's view about the wide-ranging character of those powers. The Assistant Secretary in charge of the Nationalised Industries Division of the Ministry of Transport and Civil Aviation said: " The Minister has a general oversight in addition to these specific powers. He is in constant touch with the Chairman of the British Transport Commission. Very many matters are discussed between them which are not enumerated here, but the responsibility for the decisions taken rests with the Commission. The Minister might conceivably feel bound to intervene if he thought things were going wrong, if the Commission were getting into deep water or being mismanaged. He might feel he had to make some changes in the membership of the Commission, or he might feel he had to issue some kind of direction. But it is impossible to draw the line. What we have attempted to do here is to list the statutory responsibilities, but on top of them the Minister has this general oversight." (Q. 29 on 31st October, 1955.)

The Assistant Secretary from the Ministry of Fuel and Power replied " That is so " when asked by Mr. Ernest Davies: " In addition to which " (i.e., to the specific powers) " the Minister exercises a general supervisory power over the Boards, does he not? " (Q. 41 for the same day.) He also referred to consultation between the Minister and the Chairmen of the Boards, but said he " would not go so far as to say that " when asked: " When

[1]An Assistant Secretary of the Ministry of Fuel and Power said that offhand he could not recall any matter of importance mentioned in the last Annual Report of the National Coal Board which was not covered by one or other of the matters listed in the schedule of his Minister's powers. (Qs. 52-54 on 31st October, 1955.)

the consultation is finished, is the result . . . technically a decision by the Minister or not?" (Q. 51.)

It is a pity in many ways that the committee allowed all this to overwhelm them, instead of experimenting for a year. Notwithstanding Mr. Hugh Molson's bland statement to the earlier committee that "in the past the House of Commons has always found it convenient, when confronted with a special problem, to appoint a committee," the fact is that the House has always been reluctant to use committees and certainly to endow committees with any powers of control over Ministers, and their general administration. It is difficult to see the Government recommending a substantial widening of the committee's terms of reference to allow it to do for the Nationalised Industries what no committee has power to do for other aspects of governmental administration. If, however, it is only a question of some latitude in interpretation, might not the committee have worked this out in practice to the satisfaction of all? Might not the members have done the useful but humbler job of presenting to the House a well organised body of information on different aspects of these industries in the manner of the Estimates Committee. Would this have been outside their terms of reference or were the members only interested in more exciting things?

One final reflection. This emphasis on the powers of the Minister and on his general oversight over these industries is a far cry from the pre-war concept of the public corporation as exemplified by the Central Electricity Board and the London Passenger Transport Board. The Minister of Transport, in a letter to the committee, even went so far as to refer to his "duties as spokesman for these undertakings in Parliament," as evidence of how extremely wide were his responsibilities. "Spokesman"—and this not in an unguarded moment by a civil servant not used to being publicly examined by M.P.s but in what was presumably a carefully worded letter. Does not all this make it increasingly difficult for Ministers to refuse to answer questions in the House on the plea that the Board is responsible? Are not the present Boards being brought nearer to being departmental agencies, and is this what Whitehall and Parliament wants, or is the whole thing getting in rather a muddle?

## ERRATUM

*Postscript to the Civil Service Reforms* 1855

The T. N. Farrer referred to several times on pages 299-301 of the Autumn, 1955, issue should be T. H. Farrer, and the initials T.N.F. should therefore be T.H.F.

# *Haldane Essay Competition, 1955*

*The Adjudicators were Wilfrid Harrison, Fellow in Politics, Queen's College, Oxford, and S. A. Bailey, formerly Establishment Officer, Ministry of Transport, and now Special Adviser at the Administrative Staff College. Their report follows below.*

There were 13 entries. The general standard was disappointing. Most of the essays appeared to have been written hastily: they lacked finish and showed little regard to arrangement or to precision of expression. Very few of the writers had much to say about the sources on which they were drawing; references were scanty; too often statements were made unsupported by evidence, or evidence cited was badly interpreted; and arguments were often left only partially developed. Some essays simply generalised personal experiences (sometimes, the judges suspected, personal grievances) apparently without the writer having considered whether these were necessarily representative: others did no more than summarise and conflate familiar arguments from secondary sources. Bad presentation made some difficult to read; corrections were often untidy, and too many, indeed, contained uncorrected typing errors.

The judges do not consider that any of the essays merit the award of the Haldane Silver Medal and £50 prize.

There are, however, three essays which, while not reaching the standard we consider necessary for the Silver Medal, merit commendation and consideration for some lesser award. These are (in order of merit, the first being more highly regarded than the other two):

*An Indo-British Institution* by V. Subramaniam.

*British Traditions in the Administration of Israel* by the Hon. Edwin Samuel, C.M.G.

*The Recruitment, Training and Promotion of the Hospital Administrator* by A. E. Rippington.

## BACK NUMBERS

The Institute has recently received an unexpectedly large number of orders for back numbers of certain recent issues, and stocks of the Autumn, 1953, Summer, 1955, and Winter, 1955, numbers have been depleted. Readers are offered 3s. each for copies of these issues.

# INSTITUTE NEWS

## *About Members*

Two leading members of the Institute figured in the New Year's Honours List. One of them was Dr. A. H. Marshall, City Treasurer of Coventry, who received the C.B.E. This time last year Dr. Marshall was in British Guiana on a mission for the Colonial Office investigating and preparing a report on the possibility of reorganising and expanding local government in that territory.

The other member to be honoured was Mr. C. G. Lewis, a Children's Welfare Officer with the Government of South Australia and Hon. Secretary of the South Australian Group of the Institute, who has been awarded the O.B.E. The official citation which accompanied this award recorded that "the success of the South Australian Group is largely due to Mr. Lewis's work in an honorary capacity." It is most gratifying that the work of one of the Institute's most devoted Group Secretaries should receive official approval in this way.

Sir Albert Day, who has been a member of the Executive Council for a number of years, is retiring from the post of Chairman of the Staff Side of the Civil Service National Whitley Council, which he has held since 1939, having been since 1947 the first full-time holder of that office. Sir Albert was General Secretary of the Society of Civil Servants from 1923 to 1946. Sir Albert Day's contribution to the development of modern Whitleyism in the Civil Service has been profound, and every civil servant will wish him a long and happy retirement. His contribution to the work of the R.I.P.A. has also been important. He was Chairman of the Institute's Executive Council in 1951-52, and Chairman of the Programme Committee for several years. He also serves as the Institute's principal representative at the International Institute of Administrative Sciences, and he is now a Vice-President of that organisation. Fortunately, Sir Albert intends to continue his work for the R.I.P.A. and the I.I.A.S.

Another recent retirement to report is that of Mr. J. Shuttleworth from the post of Assistant Secretary in the Northern Ireland Ministry of Health and Local Government. Mr. Shuttleworth also does not intend to give up his Institute activities, and he is remaining Hon. Secretary of the Belfast and Northern Ireland Regional Group, an office which he has held for many years.

One of our University members, Mr. A. H. Hanson of Leeds, recently spent a year at the Public Administration Institute for Turkey and the Middle East, Ankara, where he served as Director of Research. Since his return he has edited a volume of papers on *Public Enterprise*, which had been prepared for the Seminar on the Organisation and Administration of Public Enterprises in the Industrial Field, held in Rangoon in March, 1954. This book, which is published by the International Institute of Administrative Sciences and costs £2, can be obtained from Haldane House.

## *News from the Groups*

THE South Wales Regional Group was sorry to have to accept the resignation of their Group Secretary, Mr. Norman Chapman, who is going to Nigeria for two years as an Assistant Controller of Telecommunications in the Post Office Telegraphs Department. Mr. Chapman has been in the Post Office since 1938, as Traffic Superintendent in Bristol, and more lately as Assistant Telecommunications Controller in the Cardiff headquarters of the Post Office. War service took him to North Africa, Italy and Singapore, but his forthcoming tour of duty in West Africa will provide his wife and two small children with their first experience of travel overseas. He expects to be in Lagos to start with, but will probably spend most of his time at Kaduna, the capital of the Northern Region. Mr. Chapman expects to return at the end of 1957, when he looks forward to renewing his contacts with the South Wales Regional Group of the Institute.

## *Education and Training in Public Administration*

THE Executive Council has set up a small committee to consider the courses and qualifications in public administration available to members in various parts of the public services, and to consider if any expansion of them is desirable and possible. The committee is under the chairmanship of Mr. R. W. Bell, and includes Mr. W. L. Abernethy, Deputy Comptroller of the L.C.C., Sir Albert Day, who is well acquainted with the Civil Service aspects of the problem, Professor W. A. Robson, of the University of London, and Mr. J. V. Wood, a member of the Northern Divisional Board of the National Coal Board. As a first step the committee is consulting training and education officers in a number of representative public authorities.

## *Conference in Paris*

MEMBERS will already have heard that arrangements are being made for an Institute conference in Paris in September on some of the salient features of French administration. This conference will follow the lines of the summer conferences held on *Devolution of Government* in Belfast in 1950, on *Public Authorities and the Arts* in Edinburgh in 1952, and on *Government and Administration in The Netherlands* at The Hague in 1954. Within a few days of the announcement of the projected Paris conference, over 40 members expressed their desire to attend, and further applications are being received.

## *Advanced Courses in Public Administration at the Hague*

THE Institute of Social Studies in The Hague, which is an international centre for the postgraduate study of the social sciences, holds every year a six months' advanced diploma course in public administration.

The approximate charges for each course are a registration fee of £3 10s., a tuition fee of £45, and a weekly payment of £5 for living expenses. Further information about the courses, and application forms, may be obtained from the Rector, Institute of Social Studies, 27 Molenstraat, The Hague.

# BOOK REVIEWS

## *Studies in the Social Services*

By SHEILA FERGUSON and HILDA FITZGERALD. H.M.S.O. and Longmans Green, 1954. Pp. ix+367. 22s. 6d.

THIS book is a successor to *Problems of Social Policy*, by Professor R. M. Titmus, and is part of the United Kingdom Civil Series in the *History of the Second World War*. The value of the book not only lies in the record it gives of the growth of government action in the development of the social services; it also shows how some of the services which are thought to be such an essential part of our Welfare State today sprung from war-time needs and improvisations.

In an introductory chapter it is explained how the fall in the size of the family between the two wars had many implications and particularly the lessening of the possibilities of inter-family help. The dispersal of families and even neighbourhoods during the war removed many of the possible sources of self-help among families and friends. The family became increasingly unable to deal with such normal emergencies of life as childbirth, the illness of a mother of young children, and the sickness of elderly relations. What the family and neighbourhood could no longer do for themselves the State had to help them to do. So the social services were expanded. It was soon found that one obvious way of helping old people or families in distress was to supply them with domestic help which had previously been given to a limited extent as part of the maternity and child welfare service. Thus was started the domestic help service, first to a large extent on a voluntary basis, which was the forerunner of what is perhaps the most valuable single part of the local health service today.

After describing the operation of the maternity service and its transformation from the evacuation scheme into a supplementary source of maternity beds, the authors go on to discuss the whole problem of illegitimacy and war. Between 1940 and 1945 almost 300,000 illegitimate babies were born in England, Scotland and Wales, or over 100,000 more than in the six years preceding the war. But, for almost four years after the beginning of the war, illegitimacy as a social problem was not regarded as a responsibility of government. The position of unmarried mothers and their babies became more serious as their numbers increased, and it became necessary for welfare authorities to supplement the help originally given only by voluntary agencies. Arising out of this consideration of illegitimacy came the question of legal adoption and as to whether unmarried mothers should be encouraged or discouraged from giving up their babies. To enable the mother to keep her child the need for hostels or residential clubs arose, and it is suggested that even after the war these may prove to be an answer to the question which faces every unmarried mother without a home.

To ensure that children did not suffer from food shortages, services far in advance of those available in peace-time were gradually built up. Such was the success of this policy that in the middle war years it was possible to say that many young children were more secure nutritionally than they had ever been. This was the start of the provision of milk and vitamins on a national scale for all young children. Children also benefited by an intensification of the campaign for diphtheria immunisation, which has since contributed with very great success to saving child life. The last chapter in the section on the welfare of children refers to the residential nurseries, which were started as part of the evacuation scheme. There was, however, much confusion for some time because some children in the nurseries were the responsibility of the government under the evacuation scheme and others were the responsibility of the public assistance authority under the poor law. The authors are critical of the nurseries run by the public assistance authorities, and on this I may add a personal note because later as a member of the Curtis Committee

I had to condemn the poor law nurseries in some areas. In Kent, however, the removal of healthy children from institutions and hospitals to make room for casualties resulted in the setting up for the first time of residential nurseries in former large private houses rented for the purpose. These were just as well run and as effectively staffed as those provided under the evacuation scheme and much better than some of them. They became part of the services transferred to the Children's Committee when it was established under the Children Act, 1948.

The final chapter of the book deals with the development of the nursing services. In 1948 the salaries of student nurses ranged between £15 and £20 for the first year and between £30 and £50 for the fourth year. The Ministry of Health, as a first step to the improvement of salaries, decided to guarantee salaries of £40 for the first year of training with increases of £5 for each subsequent year. The salaries of trained staffs were equally unsatisfactory. It is strange now to realise that during the first 22 years of its existence the Ministry of Health had no Nursing Division. When the division was established in 1941 nursing ceased to be solely the concern of the individual hospitals and a national nursing policy was evolved. Between 1942 and 1943 the ratio of nurses to beds in the hospitals for the chronic sick fell from 14 : 100 to 12 : 100, and the proportion of trained nurses among the staffs became dangerously low. It was as a result of the serious nursing position that the Nurses Salaries Committee for England and Wales, under the chairmanship of Lord Rushcliffe, was appointed in 1941, with a similar committee in Scotland under the chairmanship of Professor T. M. Taylow. At the end of the war, conditions in nursing were still far from satisfactory, but they had improved and continue to improve. The Salaries Committee remained to do much valuable work.

The book will take a worthy place amongst the others describing the problems and the difficulties of the war years.

JOHN MOSS

## *Case Problems in Personnel Management*

By ROGER M. BELLOWS. Wm. C. Brown (Dubuque, Iowa), 1955. Pp. 154 and working appendix. $3.

THE title is an attractive one for those having some responsibility for the training of personnel officers or managers. This book should be of value, since the cases written up are about group problems following new plant installations, expansion or changing work methods, and are not, as is so often the case, only concerned with the elementary problems that feature disgruntled individuals or tardy workers.

Fifty-seven short cases are included and all are based on actual situations—except that the names of firms and of individuals have been changed. Most studies end with a short paragraph pinpointing the more important issues and asking the student reader a specific question. Thus one has the material for an interesting and much needed publication and, for good measure, there are added notes on a morale survey, a schedule of duties in one of the firms referred to, examples of test charts, and an unnecessarily lavish number of analysis check lists—one for each case.

The reader, unless he has had exceptional experience, will, it is feared, be a little confused and disappointed when he comes to tackling a number of the studies. Some of them are inclined to be over-brief and are marred by management jargon. Many of the cases are difficult to analyse on the check-list basis suggested, as more information about the situation appears to be required and the deficiencies in the organisations are not clear enough for accurate analysis. It might have been of interest, therefore, if Dr. Bellows had written up the cases in more detail and if at least one of the cases had been used as an example for analysis on a check list in Appendix A before the detailed "personnel policies and practices survey."

The concept of analysing cases methodically to demonstrate where weaknesses in an organisation exist is, nevertheless, an excellent one. In other words, this case-book, although providing excellent material for discussion by management students, may be regarded, in the United Kingdom at least, as a manual that just failed to achieve its full purpose.

JOHN SARGENT

## *Morale in War and Peace*

By T. T. Paterson. Max Parrish, 1955. Pp. 256. 18s.

In Oxford in July there will be held "H.R.H. The Duke of Edinburgh's Study Conference on the Human Problems of Industrial Communities within the Commonwealth and Empire." The aim of the conference will be to study the human aspects of industrialisation—in particular the causes of satisfaction, efficiency and understanding in both the internal and external relations of industry: it is not intended to consider matters covered by normal industrial negotiation. The appearance, therefore, of T. T. Paterson's book dealing with the problem of "morale" is very timely.

In 1941, the author, who was then in the R.A.F., was posted to a fighter station, to which he has given the pseudonym Bogfield, where an accident rate well above average was being experienced. Being a Fellow of Trinity, Cambridge, he was picked on by the Commanding Officer and instructed to find a remedy. The bulk of the book describes how he acquired an understanding of the situation and expounds the theory which he developed from careful observation and logical reasoning. The title is, perhaps, a little misleading, seeming to imply a more general study; this is corrected, however, by the sub-title "An experiment in the management of men," which is quite apt. The book is written more for industrialists than for industrial sociologists or psychologists, and they will find that it is not only interesting, but readable and, in parts, even exciting. It can be readily comprehended since the "mystique of sociological jargon" is kept to a minimum and where used is defined. Typical conversations are quoted verbatim and the author makes no attempt to disguise barrack-room expletives used by men in a fighting service. R.A.F. slang is explained in an appendix to the book, but neither "morale" nor "accident" is defined.

In trying to draw a parallel with industry the author does not attempt to establish a correlation between productivity and carelessness which leads to accidents. He assumes the latter to be a function of morale, though the assumption is questionable, since he refers to cases (both Service and industrial) where morale was high, but accident rate also high. The sociologist may perhaps distinguish between different kinds of high morale—personal morale and group morale—and the argument seems to depend on the reduction of carelessness by the inculcation of team spirit, a group morale. In a factory, where the main emphasis is likely to be on productivity, incentives are used: these are of three basic kinds—economic, psychological and sociological. Of these, the economic, which concerns the positive cash incentive balanced against the negative leisure demand, is not relevant to the present book. The other two are, however, very relevant. In industry, productivity is influenced by the positive satisfaction derived from work as against negative resistance to work stemming from fatigue and monotony. A good balance of these forces is also likely to benefit the accident rate and was the main basis of the experiment at Bogfield—the provision of something to have a crack at, a symbolic enemy, despite the inaccessibility of the real enemy. The third factor, the sociological factor, was also evident: the sense of duty, which is taken for granted but which could be enhanced, balancing against hostility to the firm or supervision, which in the Bogfield case would be felt in terms of the poor conditions at the station and its amenities. An example is given of a W.A.A.F. cook foregoing her afternoon off so as to be fit to fry bacon and eggs for the night flying crews.

The weakness of the argument stems from the apparent dependence for success on the presence of the architect of the experiment and its current application. The accident rate only fell while the experiment was in progress. When he was temporarily lent to another station (p. 189) the accident rate mounted. This occurred despite the fact that the commanding officer was most co-operative and other officers were consciously or unconsciously playing a part. Further, although so far as flying crews were concerned the author could and did concentrate on only one squadron at a time, he was surely attempting to influence all the flying control and operations room staff all the time and the team spirit which he was trying to foster should have become a real and living thing spreading

infectiously to all departments, especially those associated with flying. A study of the figures indicates a partial reversion to an average accident rate as and when his attentions were transferred to another squadron. The author did not expect his system to improve the accident rate due to mechanical failure, as distinct from pilot error, nor did he find that it did. To some extent, nevertheless, such accidents do result from the "couldn't care less" attitude, and higher morale permeating the station should have spread to the servicing personnel and led to an improvement.

The application of the theory is not treated in much detail; this will diminish the usefulness of the book in the hands of the industrialist who might feel keen to put the theory into practice. More information on this aspect of the experiment might explain the deterioration already discussed. Was the author's personality really the key to the success which he records?

The arrangement of the book into six parts (none of which has more than four chapters) and four appendices is well planned and the synopsis at the beginning of each part, though unusual, is quite valuable. The diagrams perform a useful function in facilitating the reading of the text and considerable ingenuity is expended in displaying diagramatically the social interaction between different groups of the station. One small criticism is that references to earlier diagrams and text do not always give the page number and the consequent searching is a little irritating. In Figure 17 the three diagrams are not sub-titled; a reference to Figure 4 on page 206 should read Figure 3 on page 96. Apart from these the book is remarkably free from error.

I. O. HOCKMEYER

## *Politics in Post-War France*

By PHILIP WILLIAMS. Longmans, 1954. Pp. xiv + 500. 35s.

MR. WILLIAMS'S book seems to have been with us for a long time, and is now quite indispensable to the teaching of comparative institutions. It is a measure of its importance that one cannot realise how we used to get along without it. It is by far the most important study on the subject in English in recent years, and is a mine of information for any one interested in the French political scene. The mechanics of French electoral life are placed before the reader with great lucidity and insight, and the machinery of political government well illustrated.

Mr. Williams follows a clear and logical framework for what is in principle a diffuse and varied subject matter. He begins by tracing the political history which forms the background to the Fourth Republic and enters into the heart of the matter with a set of descriptive chapters on the various parties and groups of parties. This is followed by a detailed explanation of the mechanics of the constitutional machinery of government in the Fourth Republic, in which is to be found an original and extremely interesting analysis of the role and influence of the committees of Parliament, whose importance is all too often ignored by the casual foreign observer. This part concludes with a discussion of the role of the prime minister, the National Assembly and the Council of the Republic, and with the relations between legislature and executive.

The final part of the book is an analysis and discussion of the whole political process: the significance and aims of the different types of electoral laws, the influence and methods of the pressure groups, the role of political parties and groups within Parliament, and the effects of the activities of these groups on the political system as a whole. A set of very useful appendices, maps and diagrams, and a comprehensive index complete a notable piece of work.

My major criticism of this book is that it is too professional. Mr. Williams is a close follower of MM. Goguel and Duverger. His book is of the greatest interest and utility to the skilled political scientist who already knows something about France, and the French politicians who work the system will find in it an accurate and sympathetic picture of what they do and how they do it. But French politics is about Indo-China, North Africa, German rearmament, the local affairs of the provinces of France, set in the peculiar French climate of active and influential intellectuals. And this book's

concentration upon the mechanics of politics as seen from the hothouse of Paris is a drawback for the student, and, indeed, experience has shown that it is in some respects a positive danger. Students of foreign institutions are all too prepared to see them as descriptions of formal machines, to be compared with each other along clearly defined lines. To inculcate the idea that other people live according to other ideals, and govern themselves by principles different from our own, is an essential part of the humanism attached to the university study of politics. The temptation to work in a vacuum of purely descriptive institutional arrangements without seeking an awareness of the lively reality behind the facade is too present to be ignored lightly. Mr. Williams's book, for all its outstanding merits, still allows students to assume that French politics is concerned with party machines, electoral laws, and the formal institutions of the Republic.

If this danger is kept in mind, Mr. Williams's work is of the greatest value, and will remain the standard work on the subject for years. He is to be congratulated on providing us with a work of considerable scholarship and observation, and an excellent book of reference.

BRIAN CHAPMAN

## *A History of Red Tape*

By SIR JOHN CRAIG. Macdonald and Evans, 1955. Pp. ix+221. 18s.

IT has been beyond the skill even of the author of a magnum opus on *The Mint* to force a very large quart into a modest pint pot. Yet the attempt was well worth making, for we badly lack "An Account of the Origin and Development of the Civil Service," as the sub-title of Sir John Craig's *A History of Red Tape* promises. But why did he, or his publisher, decide upon a catchpenny title which is both inaccurate, since it suggests that red tape is the prerogative of the central departments, and unrealistic, since it implies the existence of a popular public for this sort of information?

Sir John's method is to devote a series of succinct chapters to various topics, most of which relate to Departments or groups of Departments. The alternative of providing a general picture of developments, period by period over the centuries, could have been more valuable: it certainly would have been much more difficult to write in the present state of published materials, for it is impossible adequately to summarise subject matter which hardly yet exists in manageable form. The general picture emerging from the author's brilliantly written cameos is inevitably scrappy and this effect is exaggerated by the scant attention he gives to more recent developments in practically all branches. Nevertheless his chapters are full of interesting details and illuminating sidelights. The text is informative on the monetary compensation of public officials at different periods but, in default of a guide to their modern equivalents in purchasing power, the figures so generously quoted will inevitably mislead the general reader.

The personal views that frequently intrude upon the narrative are far from orthodox, which is, of course, not necessarily a bad thing, but occasionally they do injustice to those outstanding members of the profession who took part in this vast administrative cavalcade.

Thus we read of Samuel Pepys's brilliant achievements as "the greatest administrator of his century." Then comes the debunking hammer tap, to raise the shade of Lytton Strachey: "Honours were showered on the lecherous little man" and the whole edifice collapses (p. 118). This is both true and grossly unfair out of context. Pepys was the first witness to his own peccadillos: he lived in an age when morals were low and not usually offset by his diligent application to public business.

It was not to be expected, therefore, that on reaching the Chadwick era Sir John would refrain from adding to that great but uncompromising administrator's public lashings. It is certainly not true that the "three bashaws of Somerset House" allowed the Poor Law Commission to be run by Chadwick (p. 161). On the contrary, they seem to have lost no time in aggravating him beyond measure by doing things in a way he disapproved and ostentatiously ignoring his secretarial advice, though they were wise enough to allow him scope to employ his energies on his sanitary investigations.

At length we come to Sir Charles Trevelyan, "a brilliant unbalanced man who was not impressed with the quality of Whitehall staffs" (p. 183). If unbalanced he was, it was to some purpose. The 1853 Report, we are told, presented a dark picture, but it was a figment. The assumption here is that Trevelyan was either ill-informed or dishonest. The former assumption can only be supported by ignoring the detailed investigations into the Central Departments in which he had been actively co-operating since the examination of the Treasury in 1848, and which in 1860 appeared in print as a collective O & M report on the Central Departments at that time.

According to Sir John, the Civil Service since Trevelyan's machinations has been lurching headlong to disaster. The prejudice of this interpretation raises doubts about the rest of the picture. Furthermore, how can one account for the descent to un-Shakespearian bawdy on page 192 except as a sop to the ghostly popular audience who, current experience shows, could not care less for the Civil Service's history?

Nevertheless, treated with due circumspection this well produced and pleasant-to-handle book should be welcome to both teacher and student. It is no mean achievement thus to contribute to the filling of a real gap in our public administration literature. If the next writer on this subject produces a better book—and he will need to strive very hard—it will be largely because he already has Sir John's brief treatise before him.

E. N. GLADDEN

## *Elections and Electors*

By J. F. S. Ross. Eyre and Spottiswoode, 1955. Pp. 480. 42s.

MR. ROSS is already well known for his pioneer work, *Parliamentary Representation*, and must be regarded, if not as the father, at least as the elder brother of one of the branches of English political studies. This book can only add to his stature. It is an elaborate, rather discursive, set of essays, linked together by a common theme: the need for, and the mechanics of, electoral reform.

The first third of the book is devoted to a lengthy examination, under different aspects, of the various kinds of proportional representation and how they work. There are detailed arithmetical exercises to show how, in given circumstances, these methods would have worked out, and their effects on the distribution of seats in Parliament. This is followed by chapters on the political consequences of electoral reform, an examination of the quota system in operation, its effects on the number of parties, and a demand that we in this country should, in the name of common honesty and as an aid to good government, adopt a civilised electoral system. He proves, conclusively I think, that our fears of introducing governmental instability on the French pattern are quite unfounded.

Mr. Ross then turns to consider some of the special problems attached to the electoral process in this country, the question of nominations and deposits, the cost of elections, and so on. This serves as a preface to a long and valuable analysis and discussion of the three Speaker's Conferences of 1916, 1929 and 1944. This is a piece of research of a high order which will remain a valuable source of historical information. In the last part of the book Mr. Ross elaborates in detail some of his researches into the social background of Members of Parliament, their age, educational background, occupations, and service on local authorities. Much of this detail is quite new. The book ends with a set of appendices on public opinion polls, general election statistics, and "fathers of the House of Commons."

There is enough material in this book to make most existing works on electoral statistics and voting behaviour look puerile. Mr. Ross has probably also made some future books on the subject redundant before they are written. He writes with a reforming passion which is quite uncommon in political studies, and virtually non-existent in contemporary university studies on elections. There is clearly room for both, but I must admit to a preference for Mr. Ross's full-blooded approach when compared with the desiccated calculating machine type of "objective" (and therefore dull?) study.

Provided, of course, that the author is as well informed and meticulous in his research as Mr. Ross invariably is. There is an unusual quality in a book whose author comprehensively damns Sir Ernest Barker and Professor Laski on the same page for not understanding what proportional representation really means. I do not find that Mr. Ross mixes up the descriptive and prescriptive parts of his work. It is quite unjust to accuse him of doing so. His statistical and descriptive material is thoroughly reliable and handled scrupulously, and any reader with a modicum of care will clearly distinguish between fact and opinion. It may be that it is unfashionable for political scientists to express personal preferences. Mr. Ross has performed a valuable service with this notable contribution to political studies.

BRIAN CHAPMAN

## *Rule of Law*

Conservative Political Centre, 1955. Pp. 64. 2s.

THIS is a study prepared by a group of Conservative barristers, several of whom are also Members of Parliament. It is a modified version of the attack begun 20 years ago by Lord Hewart, and continued sporadically ever since, on the increasing freedom of the Civil Service from any form of "proper" control, when acting in a judicial capacity. The suggestions put forward here are of the standard variety: improvements in the staffing of administrative tribunals; their nomination by the Lord Chancellor whenever the Ministry concerned is likely to appear frequently before them; the publication of inspectors' reports; and the creation of an Administrative Division of the High Court to hear appeals on points of law.

The interesting thing about this study is the source from which it comes, rather than anything it says. It makes dutiful reference to the *Conseil d'Etat*, as is respectable today, but the authors have completely missed the point that a great part of the *Conseil's* powers and influence comes from its deliberate attempt to restrict prerogative powers to the absolute minimum. There is a useful appendix listing many of the administrative tribunals operating in England today, together with the appointing authority, and each tribunal's duties. The case made out by this study has already been made elsewhere with far greater skill and penetration.

BRIAN CHAPMAN

## *The T.V.A.*

By GORDON R. CLAPP. Chicago University Press, Cambridge University Press, 1955. Pp. xi+206. 27s. 6d.

MR. CLAPP is a distinguished administrator. Appointed Assistant Personnel Director of the T.V.A. on its creation in 1933, he became General Manager in 1939, and was Chairman of the Board from 1946 to 1954, when President Eisenhower failed to renew his appointment. He must therefore be personally credited with much of T.V.A.'s success, and should possess almost unrivalled knowledge of its operations. Hence his book arouses great expectations. Unfortunately, they are not fulfilled.

The trouble with Mr. Clapp, as a writer, is over-enthusiasm. He wants to communicate a vision, to show us a miracle. In fact, he is a tub-thumper. Convinced, like other hot gospellers, that those who disagree with him are either ignorant or sinful, he tries to enlighten the former and bring the latter to repentence by eloquent eulogies of the public-spiritedness of T.V.A.'s management, the devotion of its labour force, the excellence of its public relations, and the general brilliance of its constructive achievements.

The whole book is little more than a series of variations on the theme that T.V.A. "is a demonstration of what can be done when people refuse to be intimidated or enchanted by the greedy or diverted from the service of the public interest." Few of us in this country doubt the truth of this, for we were convinced many years back that T.V.A. was a Good Thing. Hence the Englishman

who has read his Lilienthal or Pritchett will find that this book has nothing new to say and will weary of its brash partisanship, which extends even to the exclusion of Selznick's brilliant but critical *T.V.A. and the Grass Roots* from the bibliography.

We should remember, however, that Mr. Clapp is addressing not us but his countrymen, many of whom have still to be convinced that T.V.A. is not a socialistic outrage against the American Way of Life. Still smarting from his own dismissal and justly alarmed at the "attempt to deceive the public about the real meaning of the Dixon-Yates Formula, conceived as a land mine near the heart of the T.V.A.," he has reason to be vehement. Perhaps America is the only remaining country where argument is still required to prove that privately-controlled corporations are inherently unlikely to organise power supply in a rational and far-sighted way, and that coherent national and regional plans for electricity production are needed. Mr. Clapp, who vigorously argues the case for public ownership and planning, is therefore saying something that presumably needs saying in the U.S.A., and it is possible that his obvious sincerity will convert some sceptics, and help the T.V.A. to defend itself against its enemies. Americans, like Russians, have a taste for shrill controversy, and therefore the tone of the book may not reduce its appeal on the other side of the Atlantic. But it can hardly be regarded as a contribution to the serious literature of public enterprise, and is of very minor interest to students of administration.

A. H. HANSON

# BOOK NOTES

## *The Budgetary Process in the United States*

By ARTHUR SMITHIES. McGraw-Hill, 1955. Pp. 486. $6.50.

THIS study is concerned with the processes by which the Federal Government reaches decisions about expenditure. It was prepared for the Committee for Economic Development, a non-profit organisation established by a group of businessmen in 1942. Though not neglecting the administrative process the study is made more valuable by being the work of an economist. Budgeting, says the author, is essentially an economic problem involving as it does the allocation of scarce resources among almost insatiable and competing ends. His basic presupposition is that government decision-making can be improved by the clear formulation of alternatives. This is an important contribution to central financial policy and control.

## *Municipal Labour Relations in Canada*

By S. J. FRANKEL and R. C. PRATT. Canadian Federation of Mayors and Municipalities and the Industrial Relations Centre, McGill University, 1954. Pp. 87. No price shown.

RECENT years have seen the growth of a number of trade unions in Canada catering specially for municipal employees. This book surveys some of the problems arising from this growth and examines critically the methods whereby local authorities negotiate with their employees.

## *The Supply Services of the London County Council.*

By T. J. JONES. L.C.C. and Staples Press, 1955. Pp. 20. 1s.

THIS short account of the organisation and activities of the Supplies Department of the London County Council does what it sets out to do in clear phraseology. Step by step, Mr. Jones shows us what is done to select, buy or handle the many commodities, required by his Council with economy, speed and high standards.

## *Local Government in British Guiana*

By A. H. MARSHALL. Crown Agents, 1955. Pp. 109. 2s. 6d.

DR. MARSHALL, the City Treasurer of Coventry, is now an expert at this kind of enquiry. He fully understands and appreciates local government; he does not lose sight of the wider issues in his analysis of the detail yet his detailed proposals are also practical. Of primary interest to those concerned with British

Guiana and with the development of local government in the Colonies, parts of the report will nevertheless interest a wider audience, for these give us Dr. Marshall's general views about local government, e.g.: "A local government servant is more vividly aware of his political accountability than a central government servant, whose responsibility is more remote; a local government servant has his master on his doorstep."

### *Etudes et Documents No. 8*

Conseil d'Etat. Imprimerie Nationale, Paris, 1954. Pp. 233.

THIS is the eighth in the series of annual studies prepared under the direction of M. René Cassin. In addition to surveying the activities of the different sections of the Council for 1952-53 and 1953-54, it contains an important article by Professor Vedel on the constitutional bases of administrative law.

### *Public Administration (Australia)*

THE Journal of the Australian Regional Groups continues to maintain its high standard. The December, 1954, issue, for example, contained a most interesting article by Mr. E. G. B. Foxcroft comparing the machinery adopted in Australia, Britain and the United States for reaching major decisions on the allocation of resources during a war; the June, 1955, issue contains three articles on the general theme of "Government Finance and the People," and the September, 1955, issue contains at least three articles of general interest: "Power and Responsibility in the Commonwealth Public Service" by B. W. Hartnell, "Public Administration and the University" by R. N. Spann (the new Professor of Government and Public Administration in the University of Sydney), and "Statutory Corporations under Review."

### *Parkinson's Law*

*The Economist* of the 19th November, 1955, contained an article under this title purporting to show that whatever changes took place in the powers and work of Government Departments, their staff increased at a fixed rate. Brilliantly written, the article has aroused considerable interest and amusement. Reprints can be had from *The Economist* for 6d. post free.

### *Economic Essays, 1931-1955*

Edited by J. K. EASTHAM. Economists' Bookshop, 1955. Pp. 103.

PREPARED to commemorate the Dundee School of Economics (now part of the University of St. Andrews) these six essays include a survey of the postal monopoly in Great Britain by Professor R. H. Coase.

### *The Indian Journal of Public Administration*

WE extend a warm welcome to the journal of the newly founded Indian Institute of Public Administration. The annual subscription is £1. The first two issues contain articles by the Editor—S. B. Bapat—on "The Training of the Indian Administrative Service" and "O & M in the Government of India"; by Paul Appleby on "Comparative Administration"; and by Professor Robson on "The Forms and Directions of Public Enterprise."

### *Health and Welfare Services Handbook, 2nd Edition*

By JOHN MOSS. Hadden Best, 1955. Pp. 400. 25s.

THIS is the second edition of a compact guide by a standard authority, to the law relating to the health and welfare services administered by local authorities, and to national insurance and assistance.

### *Handbook for Councilmen in Council-Manager Cities*

International City Managers Association, 1955. Pp. 48 and bibliography.

THIS is a most interesting idea well executed. Designed primarily for newly elected Councillors it contains the experience and collective wisdom of a number of Mayors and Councillors in council-manager cities. Unlike similar British attempts, it is not just a series of dry statements about legal rights and duties. Instead it explains the job of the Councillor and gives him advice as to the best way to carry it out. It is designed to help him to be an effective representative and to get the most out of the manager and the staff. The English Councillor would find

a good deal to interest him in it and certainly it would help him to understand the spirit of the City Manager system better than most other publications. We are very much in need of a booklet with similar aims but based on practice in this country.

### *Constitutional Law, 5th Edition*

By E. C. S. WADE. Longmans, 1955. Pp. 538. 35s.

A NEW edition of this standard text book, taking account of the changes of the last few years, is very welcome. It still remains, however, more assured when dealing with law than with politics or administration, where it is by no means always a good guide.

### *The Proof of Guilt*

By GLANVILLE WILLIAMS. Stevens, 1955. Pp. viii+294. 17s. 6d.

THIS series of lectures, the seventh to be delivered under the auspices of the Hamlyn Trust, deals with some of the more controversial aspects of English criminal procedure.

### *Background and Blueprint*

Acton Society Trust, 1955. Pp. 46. 4s.

THIS research paper is the first in a series which the Acton Society is to publish on hospital organisation and administration under the National Health Service. It contains an account of the development of the hospital service up to 1948, and gives a broad survey of the objectives and organisation of the present system.

### *Miscellany-at-Law*

By R. E. MEGARRY. Stevens, 1955. Pp. xvi+415. 25s.

IN this anthology, which is described as a diversion for lawyers and others, the reader will find an entertaining collection of wise and witty sayings of judges, both British and American.

### *Outrage*

By IAN NAIRN. Architectural Press, 1955. Pp. 92. 12s. 6d.

THE text and illustrations in this book are reprinted from a special number of the *Architectural Review* which appeared in June, 1955. It is devoted to a pictorial record of post-war disfigurement of the British landscape; instances are shown for which public authorities were directly responsible or which they failed to prevent through use of their planning powers.

### *Defending "The Hill" Against Metal Houses*

By W. K. MUIR, Jr. Pp. 35.

### *The Closing of Newark Airport*

By PAUL TILLETT and MYRON WEINER. Pp. 52.

Both published by the University of Alabama Press, 1955. No prices shown.

THESE are Numbers 26 and 27 in the Inter-University Case Programme Series. The first shows how local opinion prevented the erection of metal pre-fabs to house 130 families. The second relates how public reaction to two disastrous crashes resulted in the temporary closing of Newark Airport and ultimately in its reopening after the carrying out of major alterations designed to prevent a recurrence of such catastrophes.

### *Housing Rents — Accounting and Control*

By T. A. BIRD, R. HOWELL and H. C. VINCENT. I.M.T.A., 1955. Pp. 51. 7s. 6d.

THIS booklet describes the various methods which local authorities use in accounting for the rents due on houses owned by them. Among the matters dealt with are the general organisation of rent collection; tenant's and collector's records; accounting records; rebates, arrears control and recovery; and audit and internal check.

### *Rate Collection*, 1954-55

I.M.T.A., 1955. Pp. 45. 5s.

THIS welcome annual return gives particulars of the arrangements made by certain local authorities for rating owners compulsorily and voluntarily, shows the proportion of the rate due from owners and paid subject to discount, and also analyses the losses on collection and arrears. The return covers all county boroughs and metropolitan boroughs, and also representative non-county boroughs, urban districts and rural districts.

### *The Minnesota Department of Taxation*

By LLOYD M. SHORT, CLARA PENNIMAN and FLOYD O. FLOM. Geoffrey Cumberlege, 1955. Pp. viii+176. 24s.

THIS is the second study to appear in a series of administrative histories of Minnesota State Departments, prepared by the Public Administration Centre of the university. It describes the organisation and political framework of Minnesota tax administration; the central staff functions; and the administration of the general property tax, special property taxes, death and gift taxes, the income tax, the petroleum tax and the cigarette tax.

### *Local Government Chronicle*, 1855-1955

CHARLES KNIGHT, 1955. Pp. 64. 9d.

THIS special centenary edition contains a number of valuable articles on the development during the past century of various aspects of local government organisation and services. Among the distinguished contributors are Sir Ivor Jennings, Sir Howard Roberts, Sir Frederick Alban, Dr. W. P. Alexander, J. H. Warren and John Moss.

### *Knight's Local Government Superannuation (2nd Edition)*

By HORACE KEAST. Charles Knight, 1955. Pp. xxvi+417. £2 2s. 6d.

A NEW edition of this standard work on local government superannuation has been rendered necessary by the passing of the Local Government Superannuation Act, 1953. The present edition provides a detailed commentary on the provisions both of this measure and of the earlier statute of 1937.

### *Statistics Available on the Local Government Services*

By B. J. BROCKS. Royal Statistical Society, 1955. Pp. 12. 2s.

A REPRINT from the *Journal of the Royal Statistical Society* of an article in which the Research Officer of the I.M.T.A. considers the statistical data, both financial and non-financial, available in respect of local government services generally.

### *Ageing in Industry*

By F. LE GROS CLARK and AGNES C. DUNNE. Nuffield Foundation, 1955. Pp. x+147. 6s.

THE authors have selected 32 industrial occupations and have used figures from the census report and data from further enquiries to ascertain at what age men in each of these occupations are compelled to cease work, and the varying factors (such as physical effort, stress, and responsibility) which bring about retirement.

### *Democracy in Our Working Lives*

Foreword by L. A. G. STRONG. Progressive League, 1955. Pp. 47. 1s. 6d.

THE purpose of this report is to give an account of various experiments, in Britain and on the Continent, designed to develop a true sense of community among the workers and employees in various factories and among their families, and to extend their participation in the control and management of their own firm.

### *Social Work Principles in Social Work Practice*

By MRS. WINIFRED CAVENAGH. Family Welfare Association, 1955. Pp. 9. 1s.

A REPRINT of an address given by the author at the Fourth Conference of the National Council of Family Case Work Agencies.

### *Railway Commercial Practice (Supplement to Vols. I and II)*

By H. F. SANDERSON. Chapman and Hall, 1955. Pp. 48. 3s. 6d.

THIS booklet indicates the effect of the 1953 Transport Act, the Railway Reorganisation Scheme, the Railway Modernisation Plan, the Maximum Charges Scheme and various other changes made since publication of the two main volumes.

### *Graduates' Jobs*

P.E.P., 1955. Pp. 16. 2s. 6d.

THIS broadsheet records the results of a survey of the posts taken by men graduating from the universities in 1950. This survey is the first in a series of three enquiries into the employment of graduates in industry. These investigations are being undertaken by P.E.P. on behalf of

D.S.I.R. The first of them revealed that, in 1950, 23.4 per cent. of graduates entered school teaching, 23.4 per cent. manufacturing industry, 8.6 per cent. the civil service, 7.5 per cent. commerce, 4.2 per cent. university teaching, and 3.6 per cent. local government.

### *The Federal Anti-Trust Policy*

By HANS B. THORELLI. George Allen and Unwin, 1955. Pp. xvi+658. 60s.

THE Swedish author of this study gives a comprehensive and scholarly account of the economic, social, legal and political origins of the anti-trust policy of the United States, which has now become an essential part of the "American way of life." The period covered extends from 1865 to 1903, and includes the passage of the Sherman Act in 1890.

### *The British Journal of Administrative Law*

Shaw and Sons. Annual subscription, 45s.

THE first two issues of the second year of this new quarterly include articles by Sir William Spens on "Rule of Law," by M. R. R. Davies on "British Administrative Law and the Problem of Administrative Justice," and by Sir William Fitzgerald on "The Lands Tribunal," in addition to law reports on the decisions of the main administrative tribunals.

# RECENT GOVERNMENT PUBLICATIONS

THE following official publications issued by H.M.S.O. are of particular interest to those engaged in, or studying, public administration. They are available for reference in the Library of the Institute.

Agricultural Land Commission

Eighth report for the year ended 31st March, 1955. H.C. 94. pp. v, 35. 2s.

Air Transport Advisory Council

Report for the year ended 31st March, 1955, and statement by the Minister of Transport and Civil Aviation. H.C. 90. pp. 42. 2s.

Board of Control, Lunacy and Mental Treatment Acts

Report to the Lord Chancellor for the year 1954. H.C. 51. pp. 8. 1955. 6d.

Board of Trade

Monopolies and Restrictive Practices Acts, 1948 and 1953. Annual report for the year ending 31st December, 1953. H.C. 96. 1955. 6d.

British Electricity Authority

6th report and accounts, 1954-55. H.C. 72. pp. viii, 242. 8 illus., tabs. 1955. 10s.

British Overseas Airways Corporation

Report and accounts for 1954-55. H.C. 89. pp. viii, 66. 7 illus., 11 graphs. 5s.

Central Office of Information

Investment for peace: the first ten years' work of the United Nations. pp. 32. Illus. 1955. 2s.

Central Statistical Office

Annual abstract of statistics, No. 92, 1955. pp. xi, 312. 21s.

National income and expenditure, 1955. pp. iv, 67. 6s. Covers the years 1938 and 1946 to 1954.

Monthly digest of statistics. Nos. 117-119. September to November, 1955. 4s. 6d. each number.

Civil Service

Royal Commission on the Civil Service, 1953-55. Report. Cmd. 9613. pp. 239. 6s. 6d.

Colonial Office

Colonial research, 1954-55. Cmd. 9626. pp. 316. 9s. Contains reports from eleven specialist advisory bodies. Bibliographies in each report.

Development and welfare in the West Indies, 1954. Report by Sir Stephen Luke. Colonial No. 320. pp. 129. 5s. Reports sustained and energetic regional co-operation in economic matters, and a continuation of the recent trend of buoyant government revenues and a high level of external trade.

Report of H.M. Government . . . to the General Assembly of the United Nations on the Cameroons under United Kingdom administration for the year 1954. Colonial No. 318. pp. xii, 262. 12 illus., 4 maps in pocket. 15s.

Report by H.M. Government . . . to the General Assembly of the United Nations on Tanganyika under U.K. administration for the year 1954. pp. x, 254. 20 illus., map. Colonial No. 317. 1955. 8s. 6d.

Report by H.M. Government . . . to the General Assembly of the United Nations on Togoland under U.K. administration for the year 1954. pp. xii, 205. 18 illus., map. Colonial No. 319. 1955. 10s. 6d.

Commonwealth Agricultural Bureaux
26th annual report, 1954-55. pp. 47. 5s.

Commonwealth Relations Office
The Colombo Plan technical co-operation scheme. Report for 1954-55 by the Council for Technical Co-operation in South and South-East Asia. Colombo, August, 1955. pp. 30. 1s. 3d.

Commonwealth Relations Office and Colonial Office
High Commission territories: economic development and social services. Cmd. 9580. pp. 19. Map. 1955. 9d.

Corona
September to December, 1955. 1s. 6d. monthly.

Council of Industrial Design
Tenth annual report, 1954-55. pp. 32. Illus. 1s. 6d.

Department of Health for Scotland
Rents for houses owned by local authorities in Scotland, 1954. Cmd. 9539. pp. 42. 1955. 2s.

Department of Scientific and Industrial Research
Scientific research in British Universities, 1954-55. pp. v., 572. 1955. 12s. 6d.

Digest of colonial statistics, No. 22. September-October, 1955. 5s.
Appendix II is a new table giving vital statistics for the five years 1950-54.

Digest of Scottish statistics, No. 6. October, 1955. 4s.

Digest of Welsh statistics, No. 2. 1955. pp. 67. 6s. Annual publication.

Economic trends, August to November, 1955. 2s. each number.

Foreign Office
Miscellaneous No. 17 (1955). Report concerning the disappearance of two former Foreign Office officials, September, 1955. Cmd. 9577. pp. 8. 6d.

Miscellaneous No. 18 (1955). The Tripartite Conference on the Eastern Mediterranean and Cyprus, 29th August-7th September, 1955, with relevant documents. Cmd. 9594. pp. 46. 1s. 9d.

Miscellaneous No. 21 (1955). Geneva Conference. Documents relating to the meeting of Foreign Ministers of France, the United Kingdom, the Soviet Union, the United States of America, Geneva. 27th October-16th November, 1955. Cmd. 9633. pp. 185. 5s.

Forestry Commission
Report on forest research for the year ending March, 1954. pp. vi, 177. Bibliog. 1955. 6s.

General Post Office
Post Offices in the United Kingdom. October, 1955. pp. 704. 3s. Contains the postal and telegraphic address of every post office as well as money order offices in the United Kingdom (excluding London) and the Irish Republic.

Report on Post Office development and finance. Cmd. 9576. pp. 20. 1955. 9d.

General Register Office
Registrar General's statistical review of England and Wales for the two years 1950-51. Supplement on general morbidity, cancer and mental health. pp. xi, 242. 1955. 8s. 6d.

Home Office
Criminal statistics, England and Wales, 1954. Cmd. 9574. pp. xlvii, 92. 1954. 6s.

Report of the Commissioners of Prisons for the year 1954. Cmd. 8547. pp. vi, 196. 4 illus. 1955. 6s.

Seventh report on the work of the Children's Department. November, 1955. pp. 158. 16 illus. 6s.

Wales and Monmouthshire. Report of government action for the year ended 30th June, 1955. Cmd. 9592. pp. 42. 2s.

House of Commons
Equalisation grant in Scotland. Report on result of second investigation. H.C. 109. pp. 12. October, 1955. 6d.

House of Commons Library
Document No. 1. Acts of Parliament: some distinctions in their nature and numbering. pp. 8. 1955. 9d.

Inland Revenue
Income taxes in the Commonwealth. 4th annual supplement. June, 1955. 10s.

International Labour Conference, 38th session, Geneva. June, 1955.
Report by the delegates of H.M. Government in the United Kingdom. Cmd. 9629. pp. 46. 2s. 6d.

Journal of African Administration
October, 1955. 2s. 6d. monthly. Contains articles on local government in Western Nigeria, Nyasaland and British Guiana.

Land Registry
Report to the Lord Chancellor for the financial year 1954-55. pp. 8. 1s. 6d.

Ministry of Agriculture, Fisheries and Food
Domestic food consumption and expenditure, 1953. Annual report of the National Food Survey Committee. pp. 104. 1955. 4s. Records average levels of consumption and expenditure covering all classes of the population, and describes the diets of different social classes, including sample for Scotland.

The Milk Marketing Scheme, 1933, as amended to 27th June, 1955. pp. 32. 1s. 9d.

Ministry of Defence
National service. Cmd. 9608. pp. 7. October, 1955. 6d.

Ministry of Education
Pamphlet No. 3. Youth's opportunity: further education in county colleges. pp. 54. Reprinted 1954. 2s.

Report of the Committee on Maladjusted Children. pp. vi, 180. 1955. 6s. Recommends there should be a comprehensive child guidance service available for the area of every local education authority, involving a school psychological service, the school health service and child guidance clinics, all of which should work in close co-operation.

Report on the eighth session of the General Conference of U.N.E.S.C.O., Montevideo. 12th November - 10th December, 1954. Cmd. 9587. pp. 34. 1955. 1s. 3d.

Ministry of Fuel and Power
Report on electricity for the year ended 31st March, 1955. H.C. 73. pp. 13. 9d.

Ministry of Health
National Health Service. Statement specifying the fees and charges for the testing of sight and the supply and repair of glasses, from 1st December, 1955. pp. 12. 6d.

Report for the year ended 31st December, 1954. Part I—The National Health Service. Welfare, food and drugs, civil defence. Cmd. 9566. pp. xv, 242. 1955. 8s.

Ministry of Housing and Local Government
Local government financial statistics, England and Wales, 1954-55. pp. 16. 1955. 1s.

Report for the period 1950-51 to 1954. Cmd. 9559. pp. xii, 227. 1955. 7s. First report. Annual reports to be issued in future.

Slum clearance (England and Wales). Cmd. 9593. pp. iii, 70. 1955. 3s. 6d. Summary of returns including proposals submitted by local authorities.

Unsatisfactory tenants. pp. iii, 32. 1955. 1s. 9d. Main reasons for regarding tenants as unsatisfactory were arrears, neglect of the house or garden, and behaviour causing a nuisance to neighbours. Schemes for helping tenants are included.

Ministry of Labour and National Service
National Advisory Committee on the Employment of Older Men and Women. Second report. Cmd. 9628. pp. 28. 1955. 1s. 9d.

Report on the enquiry into the effects of national service on the education and employment of young women. pp. 20. 1955. 9d.

Wage incentive schemes. pp. 39. 1955. 1s. 6d. A reprint, with minor changes, of the 1951 edition.

Ministry of Pensions and National Insurance
Benefit for very short spells of unemployment or sickness. Cmd. 9609. pp. 43. 1955. 1s. 6d. Report of the National Insurance Advisory Committee.

Monopolies and Restrictive Practices Commission
Report on the supply and export of

certain semi-manufactures of copper and copper-based alloys. H.C. 56. pp. viii, 232. 1955. 7s. 6d.

National Savings Committee

33rd annual report, 1954-55. pp. 31. 1955. 1s. 9d.

New Towns Act, 1946.

Reports of the Development Corporations for the period ended 31st March, 1955. H.C. 91. pp. xviii, 450. Illus., maps, plans. 15s.

Office of the Industrial Assurance Commissioner

Report of the Industrial Assurance Commissioner for the year 1954. pp. 29. 1955. 3s. 6d.

Privy Council

Committee on Scientific Manpower. Report on the recruitment of scientists and engineers by the engineering industry. pp. 31. 1955. 1s. 3d.

Scottish Home Department

Fifth report of the Law Society of Scotland on the Legal Aid Scheme, 1954-55. pp. 29. 1s. 9d.

The Probation Service in Scotland. pp. 24. 1955. 1s. 3d. The probation method; how the service is administered; the probation staff. A revision of the 1947 edition.

Report of committee appointed to investigate the operation of the Exchequer Equalisation Grants in Scotland. Second investigation. pp. 24. 1955. 1s. 3d.

Valuation and rating in Scotland. Cmd. 9606. pp. 8. 1955. 6d.

Select Committee on Nationalised Industries.

Special report. H.C. 120. pp. vi, 41. November, 1955. 2s. 6d.

Treasury

The Colombo Plan; fourth annual report of the Consultative Committee . . . Singapore. October, 1955. Cmd. 9622. pp. 159. 5s.

Finance accounts of the United Kingdom for the financial year 1954-55. H.C. 8. pp. 78. 3s. 6d.

National Debt. Return for each of the years 1938-39 to 1954-55. Cmd. 9621. pp. 29. 1s. 6d.

United Kingdom balance of payments, 1946-55. Cmd. 9585. pp. 51. 2s. 6d.

United Kingdom Atomic Energy Authority

First annual report, 1954-55. H.C. 95. pp. vii, 35. 2s. Organisation, materials, reactors, research, staff and international aspects.

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